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JUN 19, 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

POWERS & SONS CONSTRUCTION
COMPANY, INC., Plaintiff

v.

MIA PLUMBING CORPORATION,
Defendant

) CASE NUMBER:

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08CV3513

JUDGE PALLMEYER

MAGISTRATE JUDGE MASON

COMPLAINT

Powers & Sons Construction Company, Inc ("Powers"), by counsel, David A. Buls of Casale, Woodward & Buls, LLP files this Complaint against MIA Plumbing Corporation ("MIA") and in support, alleges the following.

PRELIMINARY STATEMENT

1. This cause of action arises out of a written contract entered into by and between Powers and MIA entitled *Contract Number 5018-003*, dated October 11, 2005 ("Contract"). A copy of the Contract is attached hereto and incorporated herein as Exhibit "A".

2. According to the Contract, MIA agreed to perform certain plumbing work covered by Project Specification Section(s) 15050, 15100, 15410 and 15480 in the capacity of a subcontractor, on a private construction project commonly known as, *New Wal-Mart Facility*, located at 3500 Golf Road, Niles, Illinois ("Project"), in exchange for payment by Powers, the general contractor.

3. The Contract also gives rise to certain construction warranties offered by MIA for the benefit of Powers.

4. MIA breached the Contract and the construction warranties.

THE PARTIES

4. Powers is a general contractor incorporated and in good standing under the laws of the State of Indiana with its principal place of business located at 2636 W. 15th Avenue, in Gary, Indiana, 46404. Powers is a citizen of the State of Indiana.

5. MIA is a plumbing company incorporated under the laws of the State of Illinois, with its principal place of business located at 595 Woodland Street, in Hoffman Estates, Illinois, 60194. MIA is a citizen of the State of Illinois.

JURISDICTION AND VENUE

6. Jurisdiction exists pursuant to 28 USC § 1332 in that Powers is a citizen of the State of Indiana and MIA is a citizen of the State of Illinois and the amount in controversy is greater than \$75,000.00.

7. Venue is proper pursuant to 28 USC §1391 in that the principal place of business of MIA is in Hoffman Estates, Illinois.

RELEVANT PROVISIONS OF THE CONTRACT AND WARRANTIES

8. The Contract required MIA to supply:

Supply all labor, material, and supervision to furnish and install a complete working plumbing system as per plans and specifications.... [which] work includes, but is not limited to, all demo and patching to install your work, tax, permit fess, spoil removal, coring, rework of sewer and water for existing space as per plans, pipe insulation as per plans, air lines, grease basins, daily cleanup of your debris, overtime for work as needed...

for the benefit of Powers, on the Project in relation to Specification Section(s): 15050, 15100, 15410, 15480 ("Scope-of-Work"). MIA was required to commence the Scope-of-Work immediately upon notice from Powers and prosecute the Scope-of-Work until

completion, with such diligence as is practicable and necessary to enable Powers to fulfill its obligations as a general contractor on the Project.

9. MIA was further required to complete the Scope-of-Work in a workmanlike manner, as specified and free from defects.

10. The Contract further required MIA to timely pay for all labor, materials, supplies and equipment that it used and/or contracted for in relation to the Project.

11. The Contract further required MIA to attend weekly project meetings and other special meetings scheduled by Powers.

12. The Contract further required MIA to correct defective plumbing work on the Project.

BREACHES OF CONTRACT AND WARRANTIES

13. MIA failed to timely complete the Scope-of-Work.

14. MIA failed to complete the Scope-of-Work in a workmanlike manner, as specified and free from defects.

15. MIA failed to timely pay for all labor, materials, supplies and equipment that it used and/or contracted for in relation to the Project.

16. MIA failed to attend weekly project meetings and other special meetings scheduled by Powers.

17. MIA failed to correct defective plumbing work on the Project.

DAMAGES

18. The cost to Powers of MIA's breaches of the Contract and the warranties is to some extent documented in Change Orders, copies of which are attached hereto and incorporated herein as Exhibit "B".

19. The cost of MIA's breaches of the Contract and the warranties is to some further extent documented in a written contract between Powers and Broadway Construction Services, Inc., a copy of which is attached hereto and incorporated herein as Exhibit "C".

20. The cost of MIA's breaches of the Contract and the warranties is to some further extent documented in Change Orders issued by Powers to Broadway Construction Services, Inc., copies of which are attached hereto and incorporated herein as Exhibit "D".

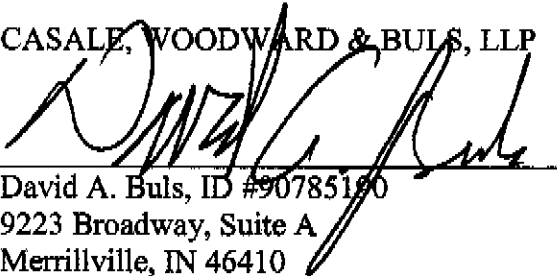
21. The cost of MIA's breaches of the Contract and the warranties is to some further extent documented through internal company records kept by Powers.

PRAYER FOR RELIEF

WHEREFORE, Powers respectfully requests that the Court: enter findings that MIA breached and/or failed to perform the Contract and the applicable construction warranties; award Powers all damages permissible under the law including but not limited to direct damages, indirect damages, consequential damages, litigation expense damages (attorney fees, costs, fees) and pre-judgment interest; and, grant Powers all other just and proper relief in the premises.

Respectfully submitted,

CASALE, WOODWARD & BULS, LLP



David A. Buls, ID #90785190
9223 Broadway, Suite A
Merrillville, IN 46410
Tele: (219) 736-9990
Fax: (219) 736-9991
Email: dbuls@cwblawfirm.com

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

POWERS AND SONS
CONSTRUCTION CO., INC.
Plaintiff

VS.

MLA PLUMBING CORP.
Defendant

CASE NUMBER:

LIST OF EXHIBITS

- A. Written Contract between Powers & Sons Construction Company, Inc. and MIA Plumbing Corporation;**
- B. Change Orders issued by Powers & Sons Construction Company, Inc. to MIA Plumbing Corporation;**
- C. Written Contract between Powers & Sons Construction Company, Inc. and Broadway Construction Services, Inc.**
- D. Change Orders issued by Powers & Sons Construction Company, Inc. to Broadway Construction Services, Inc.**

Exhibit A



General Contractors – Construction Managers
2636 W. 15th Avenue -- Gary, IN 46404
(219) 949-3100 Fax: (219) 949-5906

CONTRACT NUMBER 5018-003

THIS AGREEMENT, made this October 11, 2005, by and between POWERS & SONS CONSTRUCTION COMPANY, INC., hereinafter designated the Contractor, and

MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194

Hereinafter designated the Subcontractor.

WITNESSETH

That the Subcontractor hereby agrees for certain hereinafter specified considerations to furnish all materials, labor, and equipment and fully complete as required by the plans and specifications furnish by: PB2 Architecture and Engineering, plan(s) and specification(s) dated March 18, 2005; the following described

Wal-Mart Store Number 3725, Demolition of Existing Structure, Construction of new Wal-Mart Facility, and Site Improvements
3500 Golf Road, Niles, IL
ADDENDA 1, 2, and 3
NO ALTERNATES

Specification Section(s): 15050, 15100, 15410, 15480

This contractor will supply all labor, material, and supervision to furnish and install a complete working plumbing system as per plans and specifications. This work includes, but is not limited to, all demo and patching to install your work, tax, permit fees, spoil removal, coring, rework of sewer and water for existing space as per plans, pipe insulation as per plans, air lines, grease basins, daily cleanup of your debris, overtime for work as needed.

Note: Contractor to comply with all SWPPP plans and specifications for work performed on this site.

*** We need all shop drawings and submittals by October 21, 2005. ***



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And the Subcontractor further agrees to fully relieve the Contractor of all responsibility for finishing and completing the said work in accordance with the Contractor's general contract with Wal-Mart Stores Inc. hereinafter designated the Owner, in the construction of the above named project, and agreed that the terms and provisions of said contract between the Contractor and said Owner with September 13, 2005, are made part of this Agreement and further, that the Subcontractor grants to said Contractor those rights, powers, and remedies in every detail and respect and in the same language and intent which Owner reserves to itself in the said general contract.

In consideration whereof the Subcontractor shall receive the sum of **FOUR HUNDRED FOUR THOUSAND DOLLARS AND ZERO CENTS (\$404,000.00)** as full compensation for completion of the work described herein and the fulfillment of all stipulations of this agreement in the following manner, to wit:

That within ten (10) calendar days of receipt of payment by the Contractor from the Owner, payment shall be made in the amount of NINETY percent (90%) of the value of work completed the preceding month as payment estimated and approved by the Architect, Owner, and Contractor and upon payment being made by the Owner to the Contractor herein; the remaining TEN percent (10%) to be paid upon final completion and acceptance by the Owner, Architect, and Contractor of the work to be done hereunder, and said payments to be made only upon presentation of formal waivers of liens together with an affidavit that all payments have been made for all labor and material.

It is further understood and agreed that the Contractor may retain out of any moneys at any time due to Subcontractor a sum sufficient to pay all persons who have performed labor or furnished materials for the work included in this contract and/or to protect said Contractor against loss in the event the Subcontractor shall default or fail to perform this contract or any separable part thereof, and said sums may be retained until satisfactory evidence is furnished the Contractor that all such claims have been fully satisfied.



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The Subcontractor further agrees it as follows:

1. The Subcontractor will commence work immediately upon notice to do so by POWERS & SONS CONSTRUCTION COMPANY, INC., and will ~~prosecute the work until completion with such diligence~~ as is practicable and as is necessary in the opinion of the Owner to enable the Contractor to fulfill the terms of the principal contractor with ~~reference to time of completion.~~
2. The Subcontractor will not sell, assign, sublet, transfer, or set-over this contract or any part thereof, or any interest therein, or any moneys to be due, or to become due therefrom, without the consent of the Contractor.
3. The Subcontractor shall submit to contractor within five (5) days a schedule listing all items required to be furnished for review and approval action. This schedule shall indicate the approximate date when submittals will be made and the date of delivery after review action. That the Subcontractor will procure at their own expense compensation insurance and/or indemnity accident policy in a reliable insurance company or companies satisfactory to the Contractor, covering full compensation to any employees for any injuries or death under the Workmen's Compensation Act of the State in which the work is prosecuted, and protecting the Owner and the Contractor in case of accident to personnel employed on the building, themselves, and employees, or the public, and to furnish the said Contractor a certificate from the said policies to remain in full force and effect at all times until the complete performance on the part of the Subcontractor of this contract; and to indemnify the Owner and Contractor again all claims, demands, and damages, including costs and attorney's fees, in the event of suit arising from accident to persons or property occasioned by said Subcontractor or his employees.



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The Insurance Requirements are as follows:

General Liability:	
Per Occurrence	\$1,000,000
Aggregate	\$2,000,000
Products Completed Operations	\$2,000,000
Automobile Liability	\$1,000,000
Excess Liability	\$3,000,000
Workers Compensation:	STATUTORY
Employers Liability	\$1,000,000

Additional Insured & Certificate Holder Required:

1. Powers and Sons Construction Co.
2636 West 15th Avenue, Gary, IN 46404
2. Wal-Mart Stores, Inc., its subsidiaries and affiliates
2001 South East 10th Street, Bentonville, Arkansas 72716

NOTES:

1. It must also reference the above-mentioned project description and contract number.
1. Note on certificate that contractual liability is provided.
2. Cancellation must state 30 days notification of cancellation.
3. We are requiring both Powers & Sons Construction Company and Wal-Mart be named as certificate holders.



General Contractors – Construction Managers

2636 W. 15th Avenue – Gary, IN 46404

(219) 949-3100 Fax: (219) 949-5906

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4. The Subcontractor further agrees to procure, at their own expense, public liability insurance in sufficient amounts to indemnify the Contractor from any claims, suits, and/or damages arising from accidents to persons or property during the period that their contract is in force.
 5. The Subcontractor further agrees that they will have no dealings with anyone other than the Contractor in regard to additions, alterations, or deviations, in connection with this work.
 6. The minority manpower requirements shall be 25% of all trades on the project. Subcontractor shall follow city of Niles hiring and minority requirements.
 7. Subcontractor shall take precautions to observe and maintain conformance with OSHA safety requirements.
 8. Contractor will schedule weekly project meetings the attendance of which shall be mandatory for all Subcontractors either currently working on site or expected on site within two (2) weeks of the scheduled meeting. Attendance is also mandatory for any Subcontractor requested to attend by the Project Manager.
 - a. Subcontractor hereby agrees to accept a fine of \$200.00 for each mandatory project meeting not attended by a minimum of Subcontractor's project manager. NOTE: Subcontractors not on site will be notified of the date of the meeting three weeks prior to date of 1st meeting, unless otherwise notified by Project Manager.
 9. Daily clean up for Subcontractor shall be completed each and every day at the end of the scheduled workday. If the work site is left unclean, the General Contractor, without written notice, will clean the area and back charge the Subcontractor for clean up expense.
 10. That, as guarantee of the faithful performance of his part of the contract, the Subcontractor agrees to furnish a corporate surety bond in a company satisfactory to the Contractor in the amount of N/A premiums on said bond to be paid by the Subcontractor herein.

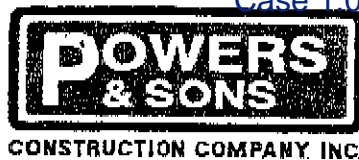


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11. That should any imperfect workmanship or material or other faults or defects appear in said building within time specified after the completion and acceptance of said work, and which in the sole judgment of the Owner and Architect arise out of improper materials or workmanship, the Subcontractor shall immediately after notice thereof, make good any such fault at his own expense and upon his default the Contractor may do said work and recover from the Subcontractor the cost thereof.
12. And it is further agreed that, if the Subcontractor shall fail to execute this Agreement according to its terms or shall default in the performance of any of the foregoing conditions, then and in that event the Contractor, by giving three (3) days notice in writing to the Subcontractor of its intentions, so to do, may terminate the Subcontractor's right to proceed with the work or any separable part thereof, and/or may enter upon the employ of other persons to finish said work by contract or otherwise, and/or do further acts as are reserved by the Owner in its principal contract with the Contractor. It is further agreed by the Subcontractor as follows: proceed with the work or any separable part thereof, and/or may enter upon the employ of other persons to finish said work by contract or otherwise, and/or do further acts as are reserved by the Owner in its principal contract with the Contractor.
13. Should the Subcontractor refuse to start work promptly, neglect to supply a sufficient number of properly skilled workmen or sufficient materials of the proper quality, or fail in performance of any of the agreements herein contained, Contractor, without notice to Subcontractor, may provide any such labor or materials and deduct the cost from any money then due or thereafter to become due under this Sub-Contract; but if such expense and damage shall exceed such unpaid balance, Subcontractor shall pay the difference to Contractor and all attorney fees associated therewith.
14. Powers & Sons will not require Subcontractor to install equipment which violates ASTM and CPSC Safety guidelines.
15. Subcontractor agrees with the terms and conditions of the attached construction schedule, and will exercise due diligence in completing his portion of the work in coordination with the other trades.



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16. NON-ENGLISH SPEAKING WORKMEN: The Subcontractor agrees that should they provide non-english speaking workmen for this project at anytime, there must also be an English speaking translator for said worker(s) present on the project for the entire period that the non-English speaking worker(s) are on the project. Translator(s) must be identified with clear markings on their hard hats and/or clothing. The translator(s) must identify themselves immediately upon reporting to the jobsite to the Project Superintendent. If non-English speaking worker(s) are working in multiple areas and quick emergency communication is not practical in the sole opinion of the Project Superintendent, the Superintendent reserves the right to require an additional translator(s) be provided for the purpose of proper emergency communication.

17. CHANGES: This Subcontract may only be modified by a written document signed by both parties. Subcontractor expressly acknowledges that only the officers of the Contractor shall have authority to sign a change order or other modifications to this Subcontract. Agents, project managers, superintendents, foremen, or other employees of Contractor shall not have any authority to contractually bind Contractor and Subcontractor agrees that it shall not rely upon or accept any modifications to this Subcontract unless such modifications are in a written document signed by an officer of the Contractor.

- a. Subcontractor agrees that it will not perform any additional work unless it has received prior written approval from an officer of contractor. Said prior written approval by an officer of Contractor shall be an absolute condition precedent to any rights of Subcontractor to recover for any additional work. In the absence of such prior written approval by an officer of Contractor, any claims by the Subcontractor shall be deemed waived and forfeited, and shall not be valid for any purpose of recovery against the Contractor, its surety, or the Owner.



General Contractors - Construction Managers

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18. CLAIMS: The Subcontractor agrees to make all claims for which the Contractor and the Owner may be jointly or severally liable in written form and in the same manner and time limitations as provided in the Contract between the Owner and the Contractor. In the event Subcontractor has any claim against the Contractor that cannot be asserted against the Owner, or if the Contract between the Owner and Contractor does not otherwise make provision for asserting any claims against the Owner or Contractor, then Subcontractor shall give written notice of any such claims to Contractor within fifteen (15) days of the date when the Subcontractor first knew, or reasonably should have known, of the facts given rise to the event for which claim is made.

- a. If a claim is timely filed, any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by binding arbitration administered by the American Arbitration Association under the Fast Track Procedure of the Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any such demand for arbitration must be filed within ninety (90) days of the date when the Subcontractor first knew, or reasonably should have known, of the facts giving rise to the event for which claim is made.
- b. If the Subcontractor fails to give timely written notice or fails to timely file a demand for arbitration, any such claims by the Subcontractor shall be deemed waived and forfeited, and shall not be valid for any purpose of recovery against the Contractor, its surety, or the Owner. In any arbitration, or in any other dispute resolution procedures relating to this Subcontract, the prevailing party shall recover its reasonable attorney fees and costs from the other party.

19. ONLY UNION LABOR: Subcontractor agrees that it and any of its lower-tiered Subcontractors working for or through Subcontractor will only employ labor pursuant to the applicable AFL-CIO building trades collective bargaining agreements that are in effect for the site of the Project and that they are signatory to all such collective bargaining agreements. Subcontractor shall, at its sole expense, indemnify, hold harmless, and defend Contractor and its surety from any liability arising from the failure of Subcontractor, or any of its lower-tiered Subcontractors working for or through Subcontractor, to comply with said obligations and/or the provisions of said collective bargaining agreements.



CONSTRUCTION COMPANY, INC.

General Contractors – Construction Managers

2636 W. 15th Avenue – Gary, IN 46404

(219) 949-3100 Fax: (219) 949-5906

20. SATISFACTION OF ALL CLAIMS AS TO SUBCONTRACTOR WORK: In the event the Contractor has reason to believe that labor, material, equipment or other obligations incurred in the performance of Subcontract work are not being paid by the Subcontractor (or any lower-tiered Subcontractor working for or through Subcontractor), or if any lien or bond claims are asserted or served on the Contractor by any person or entity in regard to Subcontractor work, then the Subcontractor shall not be entitled to any payment for Subcontract work until all such outstanding claims or other obligations asserted in regard to the Subcontract work are fully satisfied by the Subcontractor, and all such claims are finally released as to the Contractor, its surety and the Owner. Contractor shall further be entitled to retain out of any payments due or to become due to the Subcontractor a reasonable amount to protect and fully reimburse the Contractor for any and all loss, damage or expense, additional overhead and administrative costs, including attorney's fees and other costs arising out of or relating to any such claim or lien until the claim or lien has been satisfied by the Subcontractor.

21. PAYMENT: Contractor shall not be obligated to pay any portion of the Subcontractor's current payment application until the amount for the Subcontract work requested by the Subcontractor, as incorporated into Contractor's payment application to the Owner, is accepted by the Owner and funds therefore are paid from the Owner to the Contractor. Thus, Contractor's receipt of payment from the Owner for Subcontractor's work is an absolute condition precedent to all obligations of Contractor to pay Subcontractor, and Subcontractor is assuming the entire risk of the failure and/or refusal of the Owner to pay for the Subcontract work. Notwithstanding anything herein to the contrary, Contractor shall not be obligated to make final payment until Subcontractor has completed all of the Subcontract work and all items listed on any punch list(s) that relate to the Subcontract work.



General Contractors – Construction Managers

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- a. The Subcontractor, and each of its officers, directors, shareholders, employees, successors or assigns, who receive any payments or distributions from the Contractor or any person in regard to the Subcontract work shall hold such payments or distributions as a trustee upon the express trust and fiduciary duty hereby established and acknowledged for the benefit of Contractor, its surety, the Owner, and all laborers, material men, equipment or other components incorporated into the performance of the Subcontract work. The Subcontractor, and each of its officers, directors, shareholders, employees, successors and assigns, who receive or have the right to control such payments or distributions shall be under a continuing duty to account for such matters, and only use such funds for the purpose of first paying those expenses and costs of the Subcontract work that if unpaid could give rise to a claim for lien against the Owner's property, the funds due from the Owner to the Contractor, or against any bond given by the Contractor and its surety to the Owner in regard to the Subcontract work. Any person receiving or controlling the payment delivered to the Subcontractor shall be jointly and severally liable to the Contractor, its surety and the Owner for all breaches of such trust, or other acts of fiduciary malfeasance or misfeasance in regard to the accounting or application and payment of such funds.

22. TIME: Time is of the essence as to all time periods and dates set forth in this Subcontract.

23. DELAY DAMAGES: If the Contract between Contractor and the Owner provides for liquidated or other damages for delay beyond the completion date set forth in the Contract, and such damages are assessed by the Owner against the Contractor, then the Contractor may assess such damages against the Subcontractor in proportion to its share of the responsibility for such delay and damage. For purposes of establishing any such delay caused by the Subcontractor, the Subcontractor acknowledges and represents that Contractor has provided.



General Contractors – Construction Managers
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- a. Subcontractor with a schedule for construction operations that sets forth the period in which the Subcontract work is to be performed and completed, and Subcontractor agrees that it will begin and finish the Subcontract work in accordance with Contractor's construction schedule. Subcontractor's failure to either begin or finish the Subcontract work on the dates established in Contractor's construction schedule shall be presumptive of the fact that Subcontractor has caused a delay in the Subcontract work for at least the number of days beyond the start or finish dates set forth in such schedule. The assessment and allocation of liquidated or other damages to the Subcontractor hereunder, and as imposed under the Contract between the Contractor and the Owner, shall not constitute a waiver or election by the Contractor as to any rights, claims or damages that the Contractor may have against the Subcontractor for any delay in the performance of the Subcontract work. The assessment and allocation of such liquidated damages to the Subcontractor shall merely be one component of the damages that Contractor may otherwise be entitled to recover from the Subcontractor in the event of any delays caused by the Subcontractor in the performance of the Subcontract work.

24. CONTRACTOR REMEDIES FOR SUBCONTRACTOR NON-PERFORMANCE: If Subcontractor fails or ceases to perform any obligations required under this Subcontract, or otherwise fails to satisfactorily complete the Subcontract, then in addition to any other right or remedy provided by this Subcontract or applicable law, the Contractor shall be entitled to recover from Subcontract as damages for the breach of this Subcontract, all direct, indirect and consequential costs and expenses incurred by the Contractor as a result of the Subcontractor's breach or lack of performance under this Subcontract, including the Contractor's reasonable attorney's fees, costs and other charges or expenses expended or incurred in the course of litigation or other action taken to protect the Contractor's interest under this Subcontract and to enforce performance of the Subcontractor's obligations and completion of the Subcontract work. In addition to such damages the Contractor shall also be entitled to recover from the Subcontractor prejudgment interest at the rate of One and One-half percent (1.5%) per month compounded daily on all funds expended by the Contractor in the course of seeking, correcting, or obtaining the performance of any obligation of Subcontractor under this Subcontract, including but not limited to, any funds expended to settle, resolve, or dispose of any liens or claims filed against the interest of the Contractor, its surety, or the Owner, by any laborer, material men, supplier, or Subcontractor of the Subcontractor in regard to the Subcontract work.



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(219) 949-3100 Fax: (219) 949-5906

25. GOVERNING LAW: This Subcontract shall be governed by and interpreted in accordance with the laws of the State in which the Project is located.

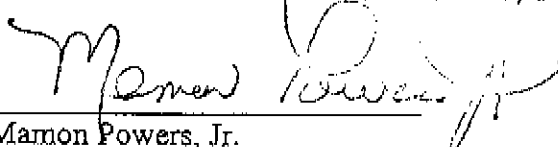
26. INTEGRATION CLAUSE: This Subcontract sets forth the entire agreement of the parties for the Project, prior oral or written agreements notwithstanding.

27. TAX EXEMPT STATUS: This project ☐ is ☒ is not tax exempt.

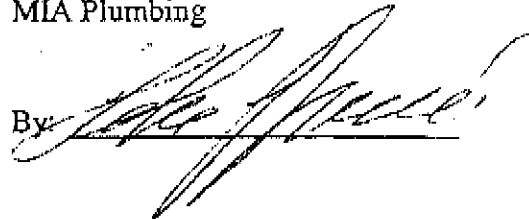
28. ACCEPTANCE CLAUSE: Acceptance of this contract is assumed if not returned to writer within 10 days from date of issue (no payments will be issued unless signed contract is on file). Beginning work or delivery after receipt of the same also constitutes acceptance.

This Agreement shall be binding upon and insure to the benefits of the respective heirs, executors, administrators, successors and assign of parties hereto.

POWERS & SONS CONSTRUCTION COMPANY, INC.

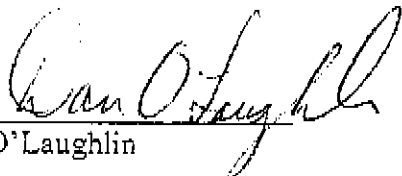
By: 
Mamon Powers, Jr.

MIA Plumbing

By: 

ITS President

ITS President

ATTEST: 
Dan O'Laughlin

ATTEST: _____

Powers & Sons Constr. & Son Company

TRANSMITTAL

No. 00014

2636 West 15th Avenue
Gary, IN 46404-2195Phone: 219/949-3100
Fax: 219/949-5906**PROJECT:** Wal-Mart Store Number 3725**DATE:** 10/24/05**TO:** MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194**PROJECT NO.** 5018**REF:** Fully Executed Contract Number
5018-003 for Project**ATTN:** Mike Savich

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
Shop Drawings	Approval	Approved as Submitted
Letter	✓ Your Use	Approved as Noted
Prints	As Requested	Returned After Loan
Change Order	Review and Comment	Resubmit
Plans		Submit
Samples	SENT VIA:	Returned
Specifications	✓ Attached	Returned for Corrections
✓ Other: Contract	Separate Cover Via: Mail	Due Date:

ITEM	PACKAGE	SUBMITTAL	DRAWING	REV.	ITEM NO.	COPIES	DATE	DESCRIPTION	STATUS
LTR					1	1	10/11/05	Fully Executed Contract Number 5018-003 for Project	NEW

CC: File

Signed: _____
Dan O'Laughlin

Exhibit B

2636 West 15th Avenue

Phone: 219.949.3100

No. 00001

Gary, IN 46404

Fax: 219.949.5906

TITLE: Roof Drain Rework - WM PCOB #8

DATE: 1/11/06

PROJECT: Wal-Mart Store Number 3725

JOB: 5018

TO: MIA Plumbing

CONTRACT NO: 5018-003

595 Woodlawn Street

Hoffman Estate, IL 60194

Phone: 847.843.0712 Fax: 847.843.0732

Attn: Mike Savich

DESCRIPTION OF CHANGE

Reason for Change: Unforeseen condition.

Powers & Sons PCO #: 8

Owner's Change Order #: N/A

Not in Original Scope: N/A

Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	Furnish all necessary labor, equipment, and supervision for the rework of the roof drain per RFI #28.	1.000	\$2,330.00	\$2,330.00
Total:				\$2,330.00

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	\$0.00
The Contract Sum Prior to This Change Order was	\$404,000.00
The Contract Sum Will be Increased	\$2,330.00
The New Contract Sum Including This Change Order	\$406,330.00
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

MIA Plumbing

By: 

Mike Savich

Date: 1/17/06

By: 

Slobodan Stojanovic

Date: 1/17/06

Powers & Sons Construction Company

By: 

Mamon Powers Jr.

Date: 1/24/06

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.



CONSTRUCTION COMPANY, INC.

General Contractors – Construction Managers

JOBSITE

8500 West Golf Road, Niles, IL 60714
Phone: (847) 966-7327 Fax: (847) 966-7198

OFFICE

2636 West 15th Avenue, Gary, IN 46404
Phone: (219) 949-3100 Fax: (219) 949-5906**Facsimile****TRANSMITTAL**

To: MIKE SAVICH Co: MIA PLUMBING
Fax #: 847-843-0732 Project: WAL-MART NILES #3725-00
From: ELE GEDREMENC
Re: OUTSTANDING PCOB'S
Date: 12-27-05

Pages: 1 including this coversheet**Message:**

Mike – I need the subcontractor summary for PCOB #8. I also need a quote on letterhead for this PCOB. I need this information immediately. It is holding up the Change Order Process.

PCOB #8 – Rework roof drain per RFI #28.

CONFIDENTIALITY NOTICE

The documents accompanying this telecopy transmission contain confidential information. The information is intended only for the use of the individual(s) or entity named above. If you are not the intended recipient, you are notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is not permissible. If you have received this telecopy in error, please immediately notify us by telephone at the number above to arrange for the return of the original documents. Thank you.

* IF YOU HAVE ANY TRANSMISSION PROBLEMS, PLEASE CALL OUR OFFICE AT 219/949-3100.

OPERATOR

BROADCAST REPORT

TIME : 12/27/2005 14:28
NAME :
FAX :
TEL :
SER.# : 000D5J236103

PAGE(S)

01

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
12/27	14:27	918478438732	38	01	OK	
12/27	14:28	918479667198	13	01	OK	ECM

BUSY: BUSY/NO RESPONSE
NG : POOR LINE CONDITION
CV : COVERPAGE
PC : PC-FAX

2636 West 15th Avenue
Gary, IN 46404

Phone: (219) 949-3100
Fax: (219) 949-5906

No. 00002

TITLE: Back Charge for Plates

DATE: 1/19/06

PROJECT: Wal-Mart Store Number 3725

PROJECT NUMBER: 5018

TO: Attn: Mike Savich

CONTRACT NO: 5018-003

MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194
Phone: 847.843.0712 Fax: 847.843.0732

DESCRIPTION OF CHANGE

Reason for Change: Back charge to subcontractor. Subcontractor could not get material, agreed to have Powers & Sons supply

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Units	Unit Price	Tax Rate	Tax Amount	Net Amount
00001	Powers and Sons agreed to supply MIA plumbing with material needed during demolition and installation in existing space. MIA has agreed to accept the back charge for the material.	1.000		(\$1,851.85)	0.00%	\$0.00	(\$1,851.85)

Unit Cost: (\$1,851.85)

Unit Tax: \$0.00

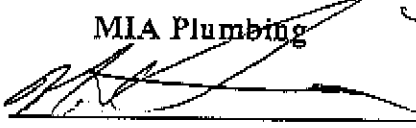
Unit Total: (\$1,851.85)

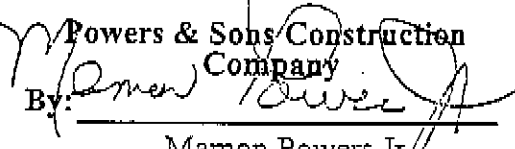
The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	\$2,330.00
The Contract Sum Prior to This Change Order was	\$406,330.00
The Contract Sum Will be Decreased	(\$1,944.44)
The New Contract Sum Including This Change Order	\$404,385.56
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

MIA Plumbing

Powers & Sons Construction Company

By: 
Mike Savich

By: 
Mamon Powers Jr.

By:

Date: 1/27/06

Date:

Date:

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

2636 West 15th Avenue
Gary, IN 46404

Phone: (219) 949-3100
Fax: (219) 949-5906

CHANGE ORDER
No. 00002

TITLE: Back Charge for Plates

DATE: 1/19/06

PROJECT: Wal-Mart Store Number 3725

PROJECT NUMBER: 5018

TO: Attn: Mike Savich
MLA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194
Phone: 847.843.0712 Fax: 847.843.0732

CONTRACT NO: 5018-003

DESCRIPTION OF CHANGE

Description	Markup Percent	Markup Amount
Admin Fee	5.000%	(\$92.59)
Total Cost:		(\$1,944.44)

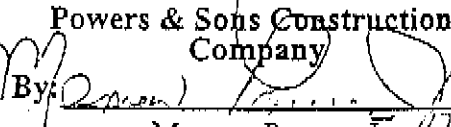
The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	\$2,330.00
The Contract Sum Prior to This Change Order was	\$406,330.00
The Contract Sum Will be Decreased	(\$1,944.44)
The New Contract Sum Including This Change Order	\$404,385.56
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is ..	

ACCEPTED:

MLA Plumbing

Powers & Sons Construction
Company

By: _____
Mike Savich

By: 
Mamon Powers Jr.

By: _____

Date: _____ Date: 1/31/06

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.



United Rentals
Highway Technologies

03513
Document 1
50181
1-952-4600

Filed 06/19/2008

Page 26 of 95

4 W' BILLING INVOICE

Job Site

POWERS & SONS CONSTRUCTION INC
8500 GOLF RD
XST: MILWAUKEE
NILES, IL 60714
C#: 219-949-3100 J#: 219-949-3100

Customer

POWERS & SONS CONSTRUCTION INC
2636 WEST 15TH AVENUE
GARY, IN 46404

Customer..... 92766
Invoice #..... 52786453-001
Invoice date 12/26/05
Date out..... 11/30/05 4:44 PM
Billed thru 12/28/05

Job Loc..... 8500 GOLF RD NILES
Job No..... 7 POWERS & SONS CO
P.O. #..... 8500 GOLF RD
Ordered By..... TOM 773-851-5114
Written by..... CYCLE BILL
Salesperson..... 5806
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS HIGHWAY TECHNOLOGIES, INC
33946 TREASURY CENTER
CHICAGO, IL 60694-6300

Qty	Equipment #	Min	Day	Week	4 Week	Amount
6	ROAD PLATE 5XB	9.00	9.00	63.00	252.00	1512.00
SALES	ITEMS:					
Qty	Item number	Stock class	Unit	Price	Amount	
1	HTG FR SH DEL	MCI	EA	173.250	173.25	
	DELIVERY CHARGES SHORING (HTG)					
					Sub-total:	1685.25
					Total:	1685.25

BILLED FOR FOUR WEEKS 11/30/05 THRU 12/28/05 04:44 PM
RENTAL PROTECTION DECLINED

POSTED
1-13

JAN

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.

FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: THE RENTAL PROTECTION PLAN IS NOT INSURANCE. Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occurring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. Customer Accepts Customer Declines

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all TERMS AND CONDITIONS listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which are underlined and bolded. REMINDERS: (1) Rates do not include fuel or delivery; (2) Optional Rental Protection Plan charges 14% of the total rental charges for covered equipment; (3) Customer pays for all time the Equipment is out, including Saturdays, Sundays and Holidays; (4) This rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (5) Customer assumes all risk and is responsible for all damages and other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS AND CONDITIONS ON REVERSE. THE INDIVIDUAL SIGNING BELOW AS OR ON BEHALF OF CUSTOMER (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTAL AGREEMENT, (2) ACKNOWLEDGES RECEIPT OF THE EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

X
CUSTOMER SIGNATURE _____ DATE _____ NAME PRINTED _____ DELIVERED BY _____ DATE _____

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.



United Rentals
Highway Technologies

Case 1:08-cv-03513 Document 1 Filed 06/19/2008 Page 1 of 1
300 NORTH ADDISON ROAD
JAN, IL 60151
J-932-4600

Page: 1
RETURN INVOICE

Job Site

POWERS & SONS CONSTRUCTION INC
8500 GOLF RD
KST: MILWAUKEE
NILES, IL 60714
C#: 219-949-3100 E#: 219-949-3100

Customer

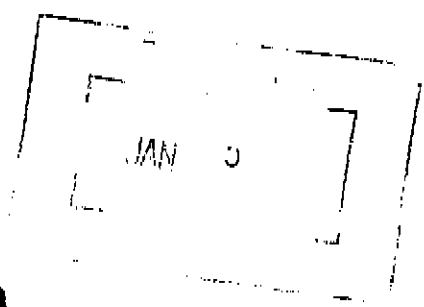
POWERS & SONS CONSTRUCTION INC
2636 WEST 15TH AVENUE
GARY, IN 46404

Customer: 92756
Invoice #: 52786463-002
Invoice date: 12/29/05
Date out: 11/30/05 4:44 PM
Date in: 12/28/05 11:17 AM
Last billed: 12/28/05
Job Loc: 8500 GOLF RD, NILES
Job No: 7 - POWERS & SONS CO
P.O. #: 8500 GOLF RD
Ordered By: TOM 773-851-5114
Written by: DRT22AR
Salesperson: 5806
Terms: Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS HIGHWAY TECHNOLOGIES, INC
33946 TREASURY CENTER
CHICAGO, IL 60694-6300

Qty	Equipment #	Min	Day	Week	4 Week	Amount
4	ROAD PLATE 5X8	9.00	9.00	63.00	252.00	N/C
SALES	ITEMS:					
Qty	Item number	Stock class	Unit	Price		Amount
1	HTG FR SH PU	MCI	EA	166.600		166.60
	PICKUP CHARGES SHORING (HTG)					
Sub-total:						166.60
Total:						166.60

Billing period: 12/28/05 04:44 PM THRU 12/28/05 11:17 AM.
RENTAL PROTECTION DECLINED



POSTED
F-13

ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.

FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: **THE RENTAL PROTECTION PLAN IS NOT INSURANCE!** Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment, occurring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence.

Customer Accepts: _____ **Customer Declines:** _____

READ BEFORE SIGNING: United hereby leases to Customer the Equipment as defined in the Terms and Conditions on the reverse side and Customer hereby accepts all **TERMS AND CONDITIONS** listed in this Rental Agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and understands. **REMINDEES:** (1) Rates do not include fuel or delivery; (2) Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) Customer pays for all time the Equipment is out, including Saturdays, Sundays and Holidays; (4) This rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (5) Customer assumes all risk and is responsible for all damages and loss of or on behalf of Customer; (6) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTAL AGREEMENT; (7) ACKNOWLEDGES RECEIPT OF THE EQUIPMENT IN GOOD WORKING ORDER AND, (8) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

X

CUSTOMER SIGNATURE _____ DATE _____ NAME PRINTED _____ DELIVERED BY _____ DATE _____

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

2636 West 15th Avenue
Gary, IN 46404

Phone: 219.949.3100
Fax: 219.949.5906

TITLE: UNFORSEEN FOOTING - RFI #35

DATE: 2/6/06

PROJECT: Wal-Mart Store Number 3725

JOB: 5018

TO: MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194
Phone: 847.843.0712 Fax: 847.843.0732

CONTRACT NO: 5018-003

Attn: Mike Savich

DESCRIPTION OF CHANGE

Reason for Change: Unforeseen condition.

Powers & Sons PCO #: 9
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

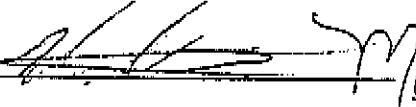
Item	Description	Quantity	Unit Price	Net Amount
00001	Remove unforeseen footing per RFI #35.	1.000	\$7,475.00	\$7,475.00
Total:				\$7,475.00

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	\$385.56
The Contract Sum Prior to This Change Order was	\$404,385.56
The Contract Sum Will be Increased	\$7,475.00
The New Contract Sum Including This Change Order	\$411,860.56
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

MIA Plumbing
By: 
Mike Savich

Date: 2/13/06

Powers & Sons Construction Company
By: 
Mamon Powers Jr.

Date: 2/13/06

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company

TRANSMITTAL

8500 Golf Road
Niles, IL 60714Phone: 847.966.7327
Fax: 847.966.7198

No. 00122

PROJECT: Wal-Mart Store Number 3725**DATE:** 2/6/06**TO:** MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194**PROJECT NO.** 5018**REF:** Change Order Number 3 for
Approval**ATTN:** Mike Savich

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
Shop Drawings	✓ Approval	Approved as Submitted
Letter	Your Use	Approved as Noted
Prints	As Requested	Returned After Loan
✓ Change Order	✓ Review and Comment	Resubmit
Plans		Submit
Samples	SENT VIA:	Returned
Specifications	✓ Attached	Returned for Corrections
Other: Change Order	Separate Cover Via: Mail	Due Date:

ITEM	PACKAGE	SUBMITTAL	DRAWING	REV.	ITEM NO.	COPIES	DATE	DESCRIPTION	STATUS
CO				1	2	2/6/06	Change Order for Approval	NEW	

PLEASE FORWARD BOTH SIGNED COPIES OF THE CHANGE ORDER BACK TO OUR OFFICE.

WE WILL THEN FORWARD YOU A FULLY EXECUTED COPY OF THE CHANGE ORDER.

THANK YOU.

CC: File

Signed: _____

Ele Gedremenc

Powers & Sons Construction Company

2636 West 15th Avenue
Gary, IN 46404

Phone: (219) 949-3100
Fax: (219) 949-5906

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CHANGE ORDER

No. 00004

TITLE: Re-Work of Sump Pan Frames

DATE: 7/5/06

PROJECT: Wal-Mart Store Number 3725

PROJECT NUMBER: 5018

TO: Attn: Mike Savich
MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194
Phone: 847.843.0712 Fax: 847.843.0732

CONTRACT NO: 5018-003

DESCRIPTION OF CHANGE

Reason for Change: Back Charge to MIA - Furnished incorrect template.

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Units	Unit Price	Tax Rate	Tax Amount	Net Amount
00001	Cost for all erection to refabricate 10 sump pan frames due to wrong template provided by MIA.	1.000		(\$3,220.00)	0.00%	\$0.00	(\$3,220.00)

Unit Cost: (\$3,220.00)

Unit Tax: \$0.00

Unit Total: (\$3,220.00)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	\$7,860.56
The Contract Sum Prior to This Change Order was	\$411,860.56
The Contract Sum Will be Decreased	(\$3,381.00)
The New Contract Sum Including This Change Order	\$408,479.56
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	...

ACCEPTED:

MIA Plumbing

Powers & Sons Construction
Company

By: _____
Mike Savich

By: _____
Mannon Powers Jr.

By: _____

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company

2636 West 15th Avenue
Gary, IN 46404

Phone: (219) 949-3100
Fax: (219) 949-5906

Case 1:08-cv-03513 Document 1 Filed 06/19/2008 Page 3 of 5

CHANGE ORDER

No. 00004

TITLE: Re-Work of Sump Pan Frames

DATE: 7/5/06

PROJECT: Wal-Mart Store Number 3725

PROJECT NUMBER: 5018

TO: Attn: Mike Savich
MLA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194
Phone: 847.843.0712 Fax: 847.843.0732

CONTRACT NO: 5018-003

DESCRIPTION OF CHANGE

Description	Markup Percent	Markup Amount
Admin Fee	5.000%	(\$161.00)
Total Cost:		(\$3,381.00)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	\$7,860.56
The Contract Sum Prior to This Change Order was	\$411,860.56
The Contract Sum Will be Decreased	(\$3,381.00)
The New Contract Sum Including This Change Order	\$408,479.56
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is ...	

ACCEPTED:

MLA Plumbing

Powers & Sons Construction
Company

By: _____

By: _____

By: _____

Mike Savich

Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

8500 Golf Road
Niles, IL 60714

Phone: 847.966.7327
Fax: 847.966.7198

TRANSMITTAL
No. 00446

PROJECT: Wal-Mart Store Number 3725

DATE: 7/5/06

TO: MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194

PROJECT NO. 5018

REF: Change Order Number 4 for
Approval

ATTN: Mike Savich

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
Shop Drawings	✓ Approval	Approved as Submitted
Letter	Your Use	Approved as Noted
Prints	As Requested	Returned After Loan
✓ Change Order	✓ Review and Comment	Resubmit
Plans		Submit
Samples	SENT VIA:	Returned
Specifications	✓ Attached	Returned for Corrections
Other: Change Order	Separate Cover Via: Mail	Due Date:

ITEM	PACKAGE	SUBMITTAL	DRAWING	REV.	ITEM NO.	COPIES	DATE	DESCRIPTION	STATUS
CO					1	2	7/5/06	Change Order for Approval	NEW

PLEASE FORWARD BOTH SIGNED COPIES OF THE CHANGE ORDER BACK TO OUR OFFICE.

WE WILL THEN FORWARD YOU A FULLY EXECUTED COPY OF THE CHANGE ORDER.

THANK YOU.

CC: File

Signed: _____
Ele Gedremenc

Job Number: 5018 Wal-Mart Store Number 372 Original Amount: 404,000.00
 Vendor No.: MIAPLU MIA PLUMBING Changeorder Amt: 4,479.56
 P/O Number: 5018-0003 Total Contract : 408,479.56

-----Invoice-----					-----Contract To Date-----				
Task	Number	Date	Amount	Retn Payments	Inv'd	Retn Payments	To Compl		
15-	100	MIA PLUMBING							404000
	5018-1	12/21/05	125000	2861	122139	125000	2861	122139	279000
	5018-2	12/28/05	46500	4650	41850	171500	7511	163989	232500
	5018-3	03/03/06	7361	736	6625	178861	8247	170613	225139
	5018-4	04/10/06	145000	0	145000	323861	8247	315613	80139
15-	100	MIA PLUMBING, Change Order Number 003							7475
15-	100	MIA PLUMBING, Change Order Number 01							2330
15-	100	MIA PLUMBING, Change Order Number 02							1944-
15-	100	MIA PLUMBING, Change Order Number 04							3381-
** Job Totals **					323861	8247	315613		84619

CAZ Recvd 10-23	MP/CP Review 10-23	CAZ (Exped) 10-23	PM's Review 10-23	Wanda's 10-23	CAZ Trans/Mail 10-23
CAZ Sent 10-23	Proceed 10-23	Not Okay 10-23	Not Okay 10-23	Not Okay 10-23	Not Okay 10-23

Title: REWORK OF SUMP PAN FRAMES Contact: MIKE SAVICH
(30 Characters)

CHANGE ORDER ENTRY

Send Backup: Y
N

Project #: 5018 Date: 6-20-2006
Project Name: Wal-Mart Niles #3725-00 Contractor: MIA PLUMBING

The subcontractor is hereby directed to all applicable provisions of the contract documents, to make the following change(s):

COST FOR ALL ERECTION TO REFABRICATE 10 SUMP PAN FRAMES DUE TO WRONG TEMPLATE PROVIDED BY MIA

Reason for Change: Back charge to MIA - FURNISHED INCORRECT TEMPLATE

Powers & Sons PCO#: _____ Contract Will Be ~~(Increased)~~ (Decreased)
Owners's Change Order #: _____ ~~(Unchanged)~~ By This Change Order
Not in Original Scope: _____ \$ 3,220.00
Contract Time Will ~~(Increased)~~ ~~(Decreased)~~ (Unchanged) By: _____

Approved by Powers & Sons Construction
Company, Inc.

By: _____
Date: _____

*Admin fee
161.00*

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Powers & Sons Construction Company

2636 West 15th Avenue
Gary, IN 46404

Phone: (219) 949-3100
Fax: (219) 949-5906

CHANGE ORDER

No. 00005

TITLE: BC: Removal & Replacement Of Water

DATE: 8/16/06

PROJECT: Wal-Mart Store Number 3725

PROJECT NUMBER: 5018

TO: Attn: Mike Savich
MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194
Phone: 847.843.0712 Fax: 847.843.0732

CONTRACT NO: 5018-002

FILE

DESCRIPTION OF CHANGE

Reason for Change: Back Charge MIA

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Units	Unit Price	Tax Rate	Tax Amount	Net Amount
00001	Removed and replaced 6" water service at back of building from the main just east of W-4 to just north of VB#2	1.000		(\$20,408.75)	0.00%	\$0.00	(\$20,408.75)

Unit Cost: (\$20,408.75)

Unit Tax: \$0.00

Unit Total: (\$20,408.75)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	\$4,479.56
The Contract Sum Prior to This Change Order was	\$408,479.56
The Contract Sum Will be Decreased	(\$21,429.19)
The New Contract Sum Including This Change Order	\$387,050.37
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is ...	

ACCEPTED:

MIA Plumbing

**Powers & Sons Construction
Company**

By: _____
Mike Savich

By: _____
Mamon Powers Jr.

By: _____

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company2636 West 15th Avenue
Gary, IN 46404Phone: (219) 949-3100
Fax: (219) 949-5906**CHANGE ORDER****No. 00005****TITLE:** BC: Removal & Replacement Of Water**DATE:** 8/16/06**PROJECT:** Wal-Mart Store Number 3725**PROJECT NUMBER:** 5018**TO:** Attn: Mike Savich**CONTRACT NO:** 5018-003MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194
Phone: 847.843.0712 Fax: 847.843.0732**DESCRIPTION OF CHANGE**

Description	Markup Percent	Markup Amount
Admin Fee	5.000%	(\$1,020.44)
Total Cost:		(\$21,429.19)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	\$4,479.56
The Contract Sum Prior to This Change Order was	\$408,479.56
The Contract Sum Will be Decreased	(\$21,429.19)
The New Contract Sum Including This Change Order	\$387,050.37
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is ...	

ACCEPTED:**MIA Plumbing****Powers & Sons Construction
Company**By: _____
Mike SavichBy: _____
Mamon Powers Jr.

By: _____

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Case 1:08-cv-03513 Document 1 Filed 06/19/2008 Page 37 of 95
Powers & Sons Construction Company

2636 West 15th Avenue
Gary, IN 46404

Phone: 219.949.3100
Fax: 219.949.5906

TRANSMITTAL

No. 00490

PROJECT: Wal-Mart Store Number 3725

DATE: 8/18/06

TO: MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194

PROJECT NO. 5018

REF: Change Order No. 5 for Approval

ATTN: Mike Savich

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
Shop Drawings	✓ Approval	Approved as Submitted
Letter	Your Use	Approved as Noted
Prints	As Requested	Returned After Loan
✓ Change Order	✓ Review and Comment	Resubmit
Plans		Submit
Samples	SENT VIA:	Returned
Specifications	✓ Attached	Returned for Corrections
Other:	Separate Cover Via:	Due Date:

ITEM	PACKAGE	SUBMITTAL	DRAWING	REV.	ITEM NO.	COPIES	DATE	DESCRIPTION	STATUS
					1	2	8/18/06	Change Order No. 5 for Approval	NEW

PLEASE FORWARD BOTH SIGNED COPIES OF THE CHANGE ORDER BACK TO OUR OFFICE.

WE WILL THEN FORWARD YOU A FULLY EXECUTED COPY OF THE CHANGE ORDER.

THANK YOU.

CC:

Signed: _____

Mamon Powers Jr.

Job Number: 5018 Wal-Mart Store Number 372 Original Amount: 404,000.00
 Vendor No.: MIAPLU MIA PLUMBING Changeorder Amt: 16,949.63-
 P/O Number: 5018-0003 Total Contract : 387,050.37

-----Invoice-----						-----Contract To Date-----			
Task	Number	Date	Amount	Retn	Payments	Inv'd	Retn	Payments	To Compl
15-	100	MIA PLUMBING							404000
	5018-1	12/21/05	125000	2861	122139	125000	2861	122139	279000
	5018-2	12/28/05	46500	4650	41850	171500	7511	163989	232500
	5018-3	03/03/06	7361	736	6625	178861	8247	170613	225139
	5018-4	04/10/06	145000	0	145000	323861	8247	315613	80139
15-	100	MIA PLUMBING, Change Order Number 003							7475
15-	100	MIA PLUMBING, Change Order Number 01							2330
15-	100	MIA PLUMBING, Change Order Number 02							1944-
15-	100	MIA PLUMBING, Change Order Number 04							3381-
15-	100	MIA PLUMBING, Change Order Number 05							21429-
** Job Totals **						323861	8247	315613	63190

Change Request

To: Ele Gedremenc
Powers & Sons Const.
2636 West 15th Avenue
Gary, IN
Ph: (847)966-7327 Fax: (847)966-7198

Number: 4a
Date: 8/9/06
Job: 06-ME464 Walmart - Niles
Phone:

Description: Remove and Replace 6" Water

Reason: Change In Scope

We are pleased to offer the following specifications and pricing to make the following changes:

Remove and replace 6" water service at the back of the building from the main just east of VV-4 to just north of V.B. #2.

Not responsible for restoration concrete, asphalt, or landscape.

Description	Quantity	Unit	Unit Price	Price
Water 6" C900 service	270.00	lf	\$32.90	\$8,883.00
Water 6" service removal	270.00	lf	\$10.85	\$2,929.50
Water trench backfill	225.00	cyd	\$6.45	\$1,451.25
Water 2" tapping valve and copper pipe to fill new 6"	1.00	ls	\$2,645.00	\$2,645.00
Water cut in 6" X 6" tee	2.00	ea	\$2,250.00	\$4,500.00
			Subtotal:	\$20,408.75
			Subtotal:	\$20,408.75
			Total:	\$20,408.75

INTERNAL
BACK CHARGE MIA

If you have any questions, please contact me at .

Submitted by: Greg Penza
MERRYMAN EXCAVATION, INC.

Approved by: _____
Date: _____

Powers & Sons Construction Company

Case 1:08-cv-03513

Document 1

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CHANGE ORDER

2636 West 15th Avenue

Gary, IN 46404

Phone: 219.949.3100

Fax: 219.949.5906

No. 00006

TITLE: Backcharge for insulation storm sew

DATE: 9/13/06

PROJECT: Wal-Mart Store Number 3725

JOB: 5018

TO: MLA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194
Phone: 847.843.0712 Fax: 847.843.0732

CONTRACT NO: 5018-003

Attn: Mike Savich

DESCRIPTION OF CHANGE

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	Back charge from sunray - insulate storm sewer pipe	1.000	(\$7,170.00)	(\$7,170.00)
Total:				(\$7,170.00)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	(\$16,949.63)
The Contract Sum Prior to This Change Order was	\$387,050.37
The Contract Sum Will be Decreased	(\$7,170.00)
The New Contract Sum Including This Change Order	\$379,880.37
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

MIA Plumbing

Powers & Sons Construction
Company

By: _____
Mike Savich

By: _____

By: _____
Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

6500 Golf Road
Niles, IL 60714

Phone: 847.966.7327
Fax: 847.966.7198

No. 00512

PROJECT: Wal-Mart Store Number 3725

DATE: 9/13/06

TO: MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194

PROJECT NO. 5018

REF: Change Order Number 6 for Approval

ATTN: Mike Savich

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
Shop Drawings	✓ Approval	Approved as Submitted
Letter	Your Use	Approved as Noted
Prints	As Requested	Returned After Loan
✓ Change Order	✓ Review and Comment	Resubmit
Plans		Submit
Samples	SENT VIA:	Returned
Specifications	✓ Attached	Returned for Corrections
Other:	Separate Cover Via:	Due Date:

ITEM	PACKAGE	SUBMITAL	DRAWING	REV.	ITEM NO.	COPIES	DATE	DESCRIPTION	STATUS
					1	2	9/13/06	Change Order for Approval	NEW

PLEASE FORWARD BOTH SIGNED COPIES OF THE CHANGE ORDER BACK TO OUR OFFICE.

WE WILL THEN FORWARD YOU A FULLY EXECUTED COPY OF THE CHANGE ORDER.

THANK YOU.

CC: File

Signed: _____
Ele Gedremenc

Powers & Sons Construction Company

2636 West 15th Avenue
Gary, IN 46404

Phone: 219.949.3100
Fax: 219.949.5906

CHANGE ORDER

No. 00007

TITLE: backcharge for install grease traps

DATE: 9/13/06

PROJECT: Wal-Mart Store Number 3725

JOB: 5018

TO: MIA Plumbing

CONTRACT NO: 5018-003

595 Woodlawn Street

Hoffman Estate, IL 60194

Phone: 847.843.0712 Fax: 847.843.0732

Attn: Mike Savich

DESCRIPTION OF CHANGE

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	Cost for merryman to install Grease Traps	1.000	(\$20,137.00)	(\$20,137.00)
Total:				(\$20,137.00)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	(\$24,119.63)
The Contract Sum Prior to This Change Order was	\$379,880.37
The Contract Sum Will be Decreased	(\$20,137.00)
The New Contract Sum Including This Change Order	\$359,743.37
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

MIA Plumbing

Powers & Sons Construction
Company

By: _____

By: _____

By: _____

Mike Savich

Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company

8500 Golf Road
Niles, IL 60714

Phone: 847.966.7327
Fax: 847.966.7198

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No. 00523

PROJECT: Wal-Mart Store Number 3725

DATE: 9/13/06

TO: MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194

PROJECT NO. 5018

REF: Change Order Number 7 for
Approval

ATTN: Mike Savich

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
Shop Drawings	✓ Approval	Approved as Submitted
Letter	Your Use	Approved as Noted
Prints	As Requested	Returned After Loan
✓ Change Order	✓ Review and Comment	Resubmit
Plans		Submit
Samples	SENT VIA:	Returned
Specifications	✓ Attached	Returned for Corrections
Other:	Separate Cover Via:	Due Date:

ITEM	PACKAGE	SUBMITTAL	DRAWING	REV.	ITEM NO.	COPIES	DATE	DESCRIPTION	STATUS
					1	2	9/13/06	Change Order for Approval	NEW

PLEASE FORWARD BOTH SIGNED COPIES OF THE CHANGE ORDER BACK TO OUR OFFICE.

WE WILL THEN FORWARD YOU A FULLY EXECUTED COPY OF THE CHANGE ORDER.

THANK YOU.

CC: File

Signed: _____

Ele Gedremenc

Merryman Excavation

1501 Lamb Road
Woodstock, IL 60098
Ph: 815.337.1700

Change Request

To: Tad Baria
Powers & Sons Const.
2636 West 15th Avenue
Gary, IN
Ph: 219-949-3100 Fax: 219-949-5906

Number: 7
Date: 6/19/06
Job: 06-ME484 Walmart - Niles
Phone:

Description: Grease Traps

Reason: Change in Scope

We are pleased to offer the following specifications and pricing to make the following changes:

Install 2000 gal grease trap per Welch Bros 6-9-06 shop drawing
Install 500 gal grease trap per Welch Bros 6-12-06 shop drawing

No restoration has been included (pavement, concrete, landscape)
No trench backfill has been included

Description	Quantity	Unit	Unit Price	Price
2000 gal grease trap	1.00	ls	\$9,710.00	\$9,710.00
500 gal grease trap	1.00	ls	\$3,240.00	\$3,240.00
4" Piping for Grease traps	1.00	ls	\$7,187.00	\$7,187.00
			Subtotal:	\$20,137.00
			Subtotal:	\$20,137.00
			Total:	\$20,137.00

If you have any questions, please contact me at .

Submitted by:

Approved by: _____
Date: _____

2636 West 15th Avenue

Gary, IN 46404

Phone: 219.949.3100

Fax: 219.949.5906

No. 00008

TITLE: back chrg for supplying stone

DATE: 9/13/06

PROJECT: Wal-Mart Store Number 3725

JOB: 5018

TO: MIA Plumbing

CONTRACT NO: 5018-003

595 Woodlawn Street

Hoffman Estate, IL 60194

Phone: 847.843.0712 Fax: 847.843.0732

Attn: Mike Savich

DESCRIPTION OF CHANGE

Powers & Sons PCO #: N/A

Owner's Change Order #: N/A

Not in Original Scope: N/A

Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	back charge from Merryman	1.000	(\$5,175.00)	(\$5,175.00)
Total:				(\$5,175.00)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	(\$44,256.63)
The Contract Sum Prior to This Change Order was	\$359,743.37
The Contract Sum Will be Decreased	(\$5,175.00)
The New Contract Sum Including This Change Order	\$354,568.37
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

MIA Plumbing

**Powers & Sons Construction
Company**

By: _____

By: _____

By: _____

Mike Savich

Don Harrison

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Merryman Excavation

1501 Lamb Road
 Woodstock, IL 60098
 Ph : 815.337.1700

<i>Change Request</i>

To: Elie Gedremenc
 Powers & Sons Const.
 2636 West 15th Avenue
 Gary, IN
 Ph: (847)966-7327 Fax: (847)966-7198

Number: 8
 Date: 8/24/06
 Job: 06-ME464 Walmart - Niles
 Phone:

Description: Stone Supplied To Plumber

Reason: Change In Scope

We are pleased to offer the following specifications and pricing to make the following changes:

Description	Quantity	Unit	Unit Price	Price
Stone Supplied To Plumber	15.00	loads	\$345.00	\$5,175.00
			Subtotal:	\$5,175.00
			Subtotal:	\$5,175.00
			Total:	\$5,175.00

If you have any questions, please contact me at .

Submitted by:

Approved by: _____
 Date: _____

Powers & Sons Construction Company

8500 Golf Road
Niles, IL 60714

Phone: 847.966.7327
Fax: 847.966.7198

No. 00520

PROJECT: Wal-Mart Store Number 3725

DATE: 9/13/06

TO: MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194

PROJECT NO. 5018

REF: Change Order Number 6 for Approval

ATTN: Mike Savich

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
Shop Drawings	✓ Approval	Approved as Submitted
Letter	Your Use	Approved as Noted
Prints	As Requested	Returned After Loan
✓ Change Order	✓ Review and Comment	Resubmit
Plans		Submit
Samples	SENT VIA:	Returned
Specifications	✓ Attached	Returned for Corrections
Other:	Separate Cover Via:	Due Date:

ITEM	PACKAGE	SUBMITTAL	DRAWING	REV.	ITEM NO.	COPIES	DATE	DESCRIPTION	STATUS
					1	2	9/13/06	Change Order for Approval	NEW

PLEASE FORWARD BOTH SIGNED COPIES OF THE CHANGE ORDER BACK TO OUR OFFICE.
WE WILL THEN FORWARD YOU A FULLY EXECUTED COPY OF THE CHANGE ORDER.
THANK YOU.

CC: File

Signed: _____
Ele Gedremenc

Powers & Sons Construction Company

2636 West 15th Avenue
Gary, IN 46404

Phone: 219.949.3100
Fax: 219.949.5906

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CHANGE ORDER
No. 00009

TITLE: back chrg for spoil removal

DATE: 9/13/06

PROJECT: Wal-Mart Store Number 3725

JOB: 5018

TO: MIA Plumbing

CONTRACT NO: 5018-003

595 Woodlawn Street

Hoffman Estate, IL 60194

Phone: 847.843.0712 Fax: 847.843.0732

Attn: Mike Savich

DESCRIPTION OF CHANGE

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	back charge from earth to mia	1.000	(\$3,300.00)	(\$3,300.00)
Total:				(\$3,300.00)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	(\$49,431.63)
The Contract Sum Prior to This Change Order was	\$354,568.37
The Contract Sum Will be Decreased	(\$3,300.00)
The New Contract Sum Including This Change Order	\$351,268.37
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

MIA Plumbing

Powers & Sons Construction
Company

By: _____

By: _____

By: _____

Mike Savich

Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company

8500 Golf Road
Niles, IL 60714

Phone: 847.966.7327
Fax: 847.966.7198

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TRANSMITTAL

No. 00522

PROJECT: Wal-Mart Store Number 3725

DATE: 9/13/06

TO: MIA Plumbing
595 Woodlawn Street
Hoffman Estate, IL 60194

PROJECT NO. 5018

REF: Change Order Number 7 for
Approval

ATTN: Mike Savich

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
Shop Drawings	✓ Approval	Approved as Submitted
Letter	Your Use	Approved as Noted
Prints	As Requested	Returned After Loan
✓ Change Order	✓ Review and Comment	Resubmit
Plans		Submit
Samples	SENT VIA:	Returned
Specifications	✓ Attached	Returned for Corrections
Other:	Separate Cover Via:	Due Date:

ITEM	PACKAGE	SUBMITTAL	DRAWING	REV.	ITEM NO.	COPIES	DATE	DESCRIPTION	STATUS
					1	2	9/13/06	Change Order for Approval	NEW

PLEASE FORWARD BOTH SIGNED COPIES OF THE CHANGE ORDER BACK TO OUR OFFICE.

WE WILL THEN FORWARD YOU A FULLY EXECUTED COPY OF THE CHANGE ORDER.

THANK YOU.

CC: File

Signed: _____

Ele Gedremenc

EARTH, INC.
 810 ARLINGTON HEIGHTS RD.
 ITASCA, IL 60143
 PHONE (830) 285-8800, ext 28
 FAX (630) 285-8821

BILL TO: Powers & Sons Construction Co.
 2636 W. 15th Avenue
 Gary, IN 46404
Attn: Ele Gedremenc

JOB: Wal-Mart Store, #3725
 Niles, IL

JOB #: 5018-010

INVOICE DATE: August 31, 2006

INVOICE # 501806-WAL (adjusted)



EXTRA WORK ORDER
 Load & Export Underground
 Utility Spoils

31-Aug Ticket #19746

Merryman Loads Removed	\$	220.00	570lds	\$ 51,400.00	\$ 51,400.00
MIA Loads Removed	\$	220.00	15lds	\$ 3,300.00	\$ 3,300.00
Wal-Mart Extra Work Order	\$	220.00	29lds	\$ 6,380.00	\$ 6,380.00

AMOUNT DUE THIS INVOICE

\$ 91,080.00

Earth Inc.
1100 N. ELLIS AVE, BENSENVILLE, ILLINOIS 60106

EXTRA WORK ORDER

19746

PROJECT: WILMINGTON

LOT: _____ DATE: 8-3-06

CUSTOMER: Powers & Sons

WORK: Load & Export

Underground Utility

Spells

Merryman 370 lbs

M14 15 lbs) 414 lbs

WILMINGTON CO. work 29 lbs

UNIT PRICE: \$220.00 per load

MAX. TOTAL PRICE: \$91,080.00

WORK TO BE COMPLETED BY: _____

DATE WORK COMPLETED: _____

EARTH INC'S SIGNATURE: [Signature]

CUSTOMER SIGNATURE: [Signature]

BACK CHARGE TO: _____

BY THE SIGNATURE OF ITS REPRESENTATIVE HEREON, CUSTOMER AGREES TO PAY ALL
SUITS CHARGING DUE FOR WORK PERFORMED PURSUANT TO THIS EXTRA WORK ORDER.
THE TERMS AND CONDITIONS SET FORTH ON THE REVERSE HEREOF ARE
INCORPORATED HEREIN.

Powers & Sons Construction Company

CHANGE ORDER

2636 West 15th Avenue
Gary, IN 46404

Phone: 219.949.3100
Fax: 219.949.5906

No. 00010

TITLE: BK CHR FOR LIEN

DATE: 9/25/06

PROJECT: Wal-Mart Store Number 3725

JOB: 5018

TO: MIA Plumbing

CONTRACT NO: 5018-003

595 Woodlawn Street

Hoffman Estate, IL 60194

Phone: 847.843.0712 Fax: 847.843.0732

Attn: Mike Savich

DESCRIPTION OF CHANGE

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Reason for Change: back charge to MIA

Item	Description	Quantity	Unit Price	Net Amount
00001	Paid to have the lien released from Vulcan Material and National Plumbing	1.000	(\$47,870.82)	(\$47,870.82)

Total: (\$47,870.82)

The Original Contract Sum was	\$404,000.00
Net Change by Previously Authorized Requests and Changes	(\$52,731.63)
The Contract Sum Prior to This Change Order was	\$351,268.37
The Contract Sum Will be Decreased	(\$47,870.82)
The New Contract Sum Including This Change Order	\$303,397.55
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

MIA Plumbing

Powers & Sons Construction
Company

By: _____

By: _____

By: _____

Mike Savich

Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Wal-Mart Stores Inc.

Fax Coversheet

Date: Mon, 11 Sep 2006 13:38:29 -0500
From: Edie Higginbotham -Legal
Email: Edie.Higginbotham@walmartlegal.com

To: Powers & Sons Constructon
Fax: 12199495906
Subject: #3725 Niles IL default notice from Land Lord

This fax and any files transmitted with it are CONFIDENTIAL and intended solely for the individual or entity to whom they are addressed. If you have received this in error please destroy it immediately.

Mr. Powers: I have just received this our landlord in regard to the claims on this store. These will put Wal-Mart Stores Inc in default of it's lease. Please look into these matters and send filed releases.

Thanks,

Edie

Edie Higginbotham

Administrative Assistant

W-M Legal Department 8313

Email: edie.higginbotham@walmartlegal.com

Phone: 479-273-6583

FAX: 479-277-5991

CONFIDENTIALITY NOTICE: This e-mail is privileged and confidential. If you have received this e-mail in error, please destroy it immediately.

National Plumbing- okay - cut check on 9-11-06
Vulcan Materials- okay - cut check on 9-12-06



IMPERIAL REALTY COMPANY

Development • Management • Investments • Brokerage

Web: www.imperialrealtyco.com • E-Mail: info@imperialrealtyco.com

4747 W. Peterson Avenue • Chicago, IL 60646 • 773-736-4100 • Fax 773-736-4541

August 29, 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 06 2006

Wal-Mart Real Estate Business Trust
702 S.W. Eighth Street
Bentonville, AK 72716

Re: Subcontractors' Notice of Intent to Lien

To Whom It May Concern:

The enclosed subcontractor's Mechanic's Lien Notice was served upon Imperial Realty Company on or about August 22, 2006 by National Plumbing & Heating Supply Co. for services allegedly provided to Powers & Sons Construction, Inc. for the Premises located at 8400 W. Golf Road, Niles, Illinois. Claimant National Plumbing & Heating Supply Co. claims \$15,335.87 is due for services and materials, which it allegedly furnished to Powers & Sons Construction, Inc., as contractor, on behalf of Wal-Mart Real Estate Business Trust.

The enclosed subcontractor's Notice and Claim for Mechanic's Lien was served upon Imperial Realty Company on or about August 24, 2006 by Vulcan Construction Materials LLP d/b/a Vulcan Materials Company for services allegedly provided to MIA Plumbing Corp. for the Premises located at 8400 W. Golf Road, Niles, Illinois. Claimant Vulcan Construction Materials LLP d/b/a Vulcan Materials Company claims \$32,534.95 is due for services and materials, which it allegedly furnished to MIA Plumbing Corp., as contractor, on behalf of Wal-Mart Real Estate Business Trust.

Paragraph 8 of the Rider to the Lease, titled "Liens", states, in relevant part, that "Lessee shall cause to be promptly discharged any mechanic's or other lien filed against the Premises by reason of any act or omission of Lessee..." A copy of Paragraph 8 is attached.

Demand is hereby made upon Wal-Mart Real Estate Business Trust to obtain and record a release of the liens and provide us with stamped copies thereof as well as original final waivers of lien, acceptable to us, duly executed by the claimants.

Please contact me upon receipt of this letter to inform us of your intentions relative to this matter. We look forward to a prompt resolution of this problem.

Sincerely,

IMPERIAL REALTY COMPANY

Andrew Schwartz
Attorney at Law

Enclosure

cc: Alfred Klairmont
Mary Jo Andersen
Steve Nikel

Niles (N) IL
Niles Ground Lease 021004
Project No. _____

GROUND LEASE

THIS GROUND LEASE is made and entered into as of the "Effective Date" (defined below) by and between WAL-MART REAL ESTATE BUSINESS TRUST, a Delaware statutory trust, whose mailing address is 702 S.W. Eighth Street, Bentonville, Arkansas 72716, "Lessor", and LA SALLE BANK N.A., as Trustee UTAD January 9, 1981, Trust No. 3119 HP, whose mailing address is 4747 W. Peterson Avenue, No. 200, Chicago, IL 60646, Attn. Imperial Realty Co., "Lessee". The "Effective Date" shall be the date upon which the last of Lessor and Lessee execute this Lease, as indicated on the signature page hereof.

WITNESSETH:

In consideration of the mutual covenants contained herein, and intending to be legally bound hereby, Lessor and Lessee hereby agree as follows:

1. PREMISES:

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, subject to the provisions of this Lease, all of that certain tract of real property, including those certain improvements thereon, situated in the City of Niles, County of Cook, and State of Illinois, more particularly described on Exhibit "A" attached hereto (said description shall be replaced upon receipt of a surveyed description as provided in Section 14) together with all rights accruing thereon (all of the foregoing tract and the existing improvements now and from time to time located on the property, as well as the Lessor Parking Areas thereon (defined in Article 5(h)(i) of this Lease), being referred to herein collectively as the "Premises"). The term "Lessor's Adjacent Parcel" as used herein shall mean that parcel adjacent to the Premises, and all improvements now and from time to time located thereon, as well as the Lessor Parking Areas thereon (defined in Article 5(h)(i) of this Lease), excluding the Outparcels (described below), and as such Lessor's Adjacent Parcel is legally described on Exhibit "A-1". The term "Outparcel" or "Outparcels", as used herein, shall mean those outparcels and improvements from time to time thereon as shown on the Site Plan and as such Outparcels are legally described on Exhibit "A-1". The term "Shopping Center" as used herein shall mean the Premises, the Lessor's Adjacent Parcel and the Outparcels; the configuration of the Shopping Center contemplated upon completion of the initial intended development at the Premises by Lessee hereunder is shown on the site plan attached hereto as Exhibit "A-2" and said site plan is herein called the "Site Plan" (said Site Plan is for identification purposes only and does not otherwise require construction or development as provided thereon unless otherwise expressly provided for hereinafter in this Lease and except as expressly set forth in Article 6 of this Lease which, subject to the provisions set forth therein, shall require Lessee to initially construct a certain building and related improvements at the Premises).

2. TERM:

(a) The term of this Lease shall commence on the Effective Date.

(b) (i) Notwithstanding the provisions of Subsection (a) of this Section 2, the obligation of Lessee to pay the rent provided in Section 3 shall commence upon the date that is one hundred eighty (180) days from the later of (x) the expiration of the Due Diligence Period, or (y) the Possession date of the Premises as hereinafter provided for in this Lease (the date that is the later of one hundred eighty (180) days after (x) or (y) herein called the "Rent Commencement Date"). The term Due Diligence Period is defined in Paragraph 18 of this Lease. The term Possession is defined in subsection (b)(iii) below.

(ii) Certain existing tenants presently occupy the Premises and must be relocated and/or their leases terminated as to the Premises; such tenant's herein called the "Relocated Tenants" and such Relocated Tenants being listed on the attached Exhibit "B". Lessor and Lessee shall reasonably cooperate with one another so as to relocate said Relocated Tenants and enter into agreements therefor in form and substance acceptable to both Lessor and Lessee (said agreements herein called the "Tenant Relocation Agreements"). Lessor has the right to terminate certain of

7. REPAIRS; REQUIREMENTS OF PUBLIC AUTHORITY:

Lessor shall, during the term of this Lease, commencing upon the Rent Commencement Date, comply with all laws and regulations of any governmental authority with respect to the Premises, provided that Lessee may in its own name or in Lessor's name contest the validity of any such law or regulation at Lessee's cost. Lessor shall execute any papers necessary to aid Lessee in any such action. Lessee shall maintain any building that may be constructed on the Premises in a first class manner consistent with other first class retail shopping centers in the Chicago metropolitan area, and so as not to violate any applicable governmental requirements pertaining thereto.

Lessor shall, during the term of this Lease, comply with all laws and regulations of any governmental authority with respect to the Adjacent Parcel, provided that Lessor may contest the validity of any such law or regulation at Lessor's cost. Lessor shall maintain any building that may be constructed on the Adjacent Parcel in a first class manner consistent with other first class retail shopping centers in the Chicago metropolitan area, and so as not to violate any applicable governmental requirements pertaining thereto. Lessor shall, during the term of this Lease, cause the owner(s) and occupants of the Outparcels, subject to the terms of their existing leases (which shall prevail), to comply with all laws and regulations of any governmental authority with respect to the Outparcels, provided that Lessor may contest the validity of any such law or regulation at Lessor's cost. Lessor shall cause the owner(s) and occupants of the Outparcels, subject to the terms of their existing leases (which shall prevail), to maintain any building(s) that may be constructed on the Outparcels in a first class manner consistent with other first class retail shopping centers in the Chicago metropolitan area, and so as not to violate any applicable governmental requirements pertaining thereto.

8. LIENS:

Lessee shall cause to be promptly discharged any mechanic's or other lien filed against the Premises by reason of any act or omission of Lessee, provided that this section shall not be applicable to the lien of any mortgage or Deed of Trust. It is understood and agreed that Lessee shall have the right to contest any lien filed against the Premises and in such case Lessee may bond over said mechanic's or other lien in the manner provided by law for the payment and removal thereof so as to allow Lessee to so contest the same.

9. ASSIGNMENT AND SUBLETTING:

Lessee may at any time and from time to time assign and reassign all of its interest in this Lease, or sublease all or any part(s) of the Premises as Lessee shall determine in its sole and absolute discretion, without need for obtaining the consent of Lessor, provided that Lessee shall remain liable for the performance of all obligations hereunder. In connection with assignments of all of Lessee's interest in this Lease or in the event Lessee shall sublet all or part(s) of the Premises, Lessee and its Guarantor (pursuant to the terms of the Guaranty attached hereto as Exhibit E) shall not be relieved of liability hereunder. In no case shall Lessee be entitled to assign its interest in this Lease or sublet the Premises for a use in violation of the Restricted Uses defined in Section (c) of Article 4 of this Lease.

10. INDEMNITY AND INSURANCE; MUTUAL WAIVER OF SUBROGATION:

From and after the Possession date from Lessor, and thereafter during the term of this Lease, Lessee agrees to provide and keep in force general liability insurance naming the Lessor and Lessor's lender holding a first lien against Lessor's interest in the Shopping Center (provided that Lessor shall have first provided Lessee with the name and address of Lessor's lender) and Lessor's managing agent (provided that Lessor shall have first provided Lessee with the name and address of Lessor's managing agent), as additional insureds in respect to injuries to any one person or in respect to property damage, in any one incident or accident, as combined single limit coverage not to exceed insurance coverage in the amount of \$2,000,000.00 in any one accident or mishap, and upon written request therefor from Lessor to Lessee, to deliver certificates of such insurance to Lessor evidencing such insurance coverage. Lessee's insurance shall cover Lessee's operations at the Premises; Lessor's insurance, described below, shall cover Lessor's Adjacent Parcel. The limits of Lessee's insurance shall be increased every ten (10) years during the Lease Term to a commercially reasonable level by agreement of Lessor and Lessee; if the parties shall fail to agree then the sole remedy of Lessor shall be for Lessor and Lessee to mutually select and agree on a third party (such as an independent commercial insurance broker experienced in commercial insurance coverages) and submit said issue to the third party

**MECHANIC'S LIEN:
NOTICE**

STATE OF ILLINOIS }

COUNTY OF Cook }

NATIONAL PLUMBING & HEATING SUPPLY CO

CLAIMANT

-VS-

Chicago Title Land Trust Company, Trust #3119-HP
J.C. Penney Properties, Inc.
Imperial Realty Company
Wal-Mart Real Estate Business Trust
Greathank
Powers & Sons Construction, Inc.
MIA PLUMBING CORP.

DEFENDANT(S)

The claimant, **NATIONAL PLUMBING & HEATING SUPPLY CO** of Chicago, IL 60646 County of Cook, hereby serves a notice for lien against **MIA PLUMBING CORP.**, contractor of 595 Woodlawn Street Hoffman Estates, State of IL; a subcontractor to Powers & Sons Construction, Inc. contractor of 2636 W. 15th Avenue Gary, IN 46404 and Chicago Title Land Trust Company, Trust #3119-HP Chicago, IL 60602 J.C. Penney Properties, Inc. Chicago, IL 60604 Imperial Realty Company Chicago, IL 60646 Wal-Mart Real Estate Business Trust (Lessee) (hereinafter referred to as "owner (s)") and Greathank (hereinafter referred to as "lender (s)") and states:

That on or about 12/07/2005, the owner owned the following described land in the County of Cook, State of Illinois to wit:

Street Address: Wal-Mart #400 W. Golf Road Niles, IL 60714:

A/K/A: SEE ATTACHED LEGAL DESCRIPTION

A/K/A: Tax # 09-11-302-017

and **MIA PLUMBING CORP.** was a subcontractor to Powers & Sons Construction, Inc. owner's contractor for the improvement thereof. That on or about 12/07/2005, said contractor made a subcontract with the claimant to provide plumbing materials for and in said improvement, and that on or about 05/25/2006 the claimant completed thereunder all that was required to be done by said contract.

ml/ga,m
lc/dn / /

060818059

The following amounts are due on said contract:

Contract	\$43,433.22
Extras/Change Orders	\$0.00
Credits	\$0.00
Payments	\$28,097.35

Total Balance Due \$15,335.87

leaving due, unpaid and owing to the claimant after allowing all credits, the sum of Fifteen Thousand Three Hundred Thirty-Five and Eighty Seven Hundredths (\$15,335.87) Dollars, for which, with interest, the Claimant claims a lien on said land and improvements, and on the moneys or contract against said subcontractor, contractor and owner.

To the extent permitted by law, all waivers of lien heretofore given by claimant, if any, in order to induce payment not received are hereby revoked. Acceptance of payment by claimant of part, but not all, of the amount claimed due hereunder shall not operate to invalidate this notice.

NATIONAL PLUMBING & HEATING SUPPLY CO.

X. BY: Robert T. Higginson

m/l/ga:ln
lc/dn //

060818059

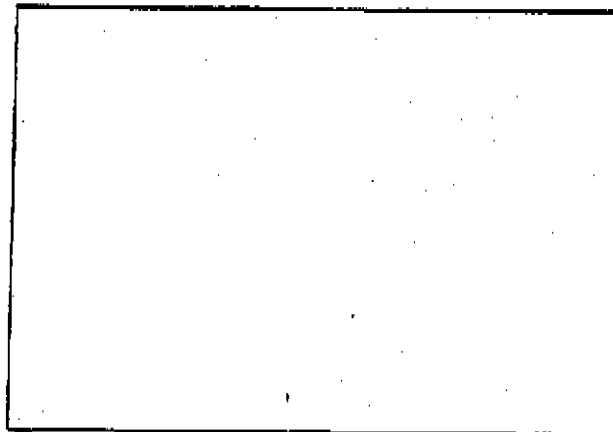
P.002/002

TD:047 374 9407

AUG-22-2006 10:29 FROM:

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN
TO:

PATRICK MAZZA
PATRICK MAZZA & ASSOCIATES
290 SOUTH MAIN PLACE, #101
CAROL STREAM IL 60188-2476



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

NOTICE AND
CLAIM FOR MECHANIC'S LIEN

CLAIMANT, VULCAN CONSTRUCTION MATERIALS LLP d/b/a VULCAN MATERIALS COMPANY (hereinafter CLAIMANT) hereby files Notice and Claim for Mechanic's Lien against CHICAGO TITLE LAND TRUST COMPANY AS TRUSTEE UNDER TRUST NO. 3119-HP successor in interest to First National Bank of Highland Park as Trustee Under Trust No. 3119 and LaSalle Bank NA as Trustee under Trust No. 3119-HP (OWNER) and MIA PLUMBING CORP. (CONTRACTOR) and states as follows:

At all times pertinent hereto, the OWNER was the owner of property legally described in Exhibit A attached hereto and made a part hereof and commonly known as Wal-Mart Tract, 8500 Golf Road, Niles Illinois and further identified by PIN 09-11-302-017-0000 (PROPERTY).

At some date not known to the CLAIMANT, CONTRACTOR entered into a contract with OWNER or one whom the OWNER knowingly authorized to contract on its behalf to perform certain improvements to the PROPERTY.

CONTRACTOR, or about the 16th day of March 2006 entered into an agreement with CLAIMANT wherein CLAIMANT was to provide materials to be used in construction of the improvements being constructed on the PROPERTY. All materials provided by CLAIMANT were of the type, quality and quantity required by the CONTRACTOR. CLAIMANT'S last day

-1-

of delivery of materials to the jobsite was May 10, 2006.

After the allowance of all payments, credits and set-offs, there remains due and owing to CLAIMANT from the OWNER and CONTRACTOR the sum of THIRTY TWO THOUSAND FIVE HUNDRED THIRTY FOUR AND 95/100THS (\$32,534.95) DOLLARS for which CLAIMANT claims a mechanic's lien against the property above-described, the improvements thereon, and any monies or other considerations due or to become due to CONTRACTOR from the OWNER, and interest thereon from May 10, 2006 at the statutory rate.

The following parties may have or claim to have some interest in and to the property, and accordingly are being given notice of this lien:

(a) GreatBank NA by virtue of a mortgage, assignment of rents and chattel mortgage recorded against the property;

(b) Walmart Real Estate Business Trust by virtue of certain leases recorded against the property.

VULCAN MATERIALS COMPANY
Midwest Division

By



David J. Muno
Manager, Credit & Collections

PATRICK MAZZA & ASSOCIATES
Attorneys for VULCAN
290 South Main Place, Suite 101
Carol Stream IL 60188-2476
630-933-9200

CERTIFICATE OF SERVICE

STEPHANIE CRODERA, under penalties of perjury, certifies that she served a true and correct copy of the foregoing notice and claim for lien upon:

CHICAGO TITLE LAND TRUST COMPANY
as Trustee under Trust No. 3119-HP
181 West Madison Street
17th Floor
Chicago IL 60602

MIA PLUMBING CORP.
c/o Ljubisa Srejovic, Reg. Agt.
1106 Dawes
Libertyville IL 60048

GREATBANK, NA
c/o Michael Foster, Sr. Vice President
525 Main Street
Evanston IL 60202

WALMART REAL ESTATE BUSINESS TRUST
c/o Corporation Trust Company, Reg. Agt.
Corporation Trust Center
1209 Orange Street
Wilmington DE 19801

by mailing a copy in a properly addressed, postage prepaid envelope, certified mail, return receipt requested, delivery restricted to addressee, in the United States Mail at Carol Stream, Illinois all this 4th day of August, 2006



Legal Description:

WAL-MART TRACT

THAT PART OF LOT 1 IN HARBOR TREES SUBDIVISION, A SUBDIVISION OF PART OF LOT 4 IN OWNER'S SUBDIVISION OF PART OF SECTION 11, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 16, 1971 AS DOCUMENT NUMBER 2750076, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTH EAST CORNER OF SAID LOT 1; THENCE ALONG THE EAST LINE OF SAID LOT 1, SOUTH 02 DEGREES 28 MINUTES 44 SECONDS WEST (ASSUMED), 847.24 FEET TO THE SOUTH EAST CORNER OF SAID LOT 1, ALSO BEING A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF GOLF ROAD; THENCE SOUTH 82 DEGREES 01 MINUTES 28 SECONDS WEST, 74.20 FEET ALONG THE SOUTH LINE OF SAID LOT 1 TO THE SOUTH EAST CORNER OF A PARCEL OF LAND DESCRIBED ON EXHIBIT A OF DOCUMENT NUMBER 2752208, RECORDED JUNE 17, 1974; THENCE ALONG THE EASTERLY, NORTHERLY, AND WESTERLY BOUNDARY LINES OF SAID LAND FOR THE NEXT 7 COURSES, NORTH 01 DEGREES 58 MINUTES 32 SECONDS WEST 30.50 FEET; THENCE NORTH 88 DEGREES 01 MINUTES 28 SECONDS EAST, 18.0 FEET; THENCE NORTH 01 DEGREES 58 MINUTES 32 SECONDS WEST, 114.88 FEET TO THE NORTHEAST CORNER OF SAID PROPERTY; THENCE SOUTH 88 DEGREES 01 MINUTES 28 SECONDS WEST ALONG THE NORTH LINE OF SAID LAND, 325.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH 01 DEGREES 58 MINUTES 32 SECONDS EAST, 114.88 FEET ALONG THE WESTERLY BOUNDARY OF SAID LAND; THENCE NORTH 88 DEGREES 01 MINUTES 28 SECONDS EAST, 18.00 FEET; THENCE SOUTH 01 DEGREES 58 MINUTES 32 SECONDS EAST, 30.50 FEET TO THE SOUTHWEST CORNER OF SAID LAND, ALSO BEING A POINT ON SAID NORTHERLY RIGHT OF WAY LINE OF GOLF ROAD; THENCE SOUTH 88 DEGREES 01 MINUTES 28 SECONDS WEST ALONG SAID NORTH RIGHT OF WAY LINE, 101.00 FEET TO THE SOUTHEAST CORNER OF PARCEL 'B', AS DESCRIBED IN DOCUMENT NUMBER 031224182, RECORDED MAY 2, 2003; THENCE NORTH 01 DEGREES 58 MINUTES 32 SECONDS WEST ALONG THE EASTERLY BOUNDARY OF SAID PARCEL 'B' FOR THIS COURSE AND THE NEXT 2 COURSES, 30.50 FEET; THENCE NORTH 88 DEGREES 01 MINUTES 28 SECONDS EAST, 18.00 FEET; THENCE NORTH 01 DEGREES 58 MINUTES 32 SECONDS WEST, 115.50 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE ALONG THE NORTH LINE OF SAID PARCEL 'B' AND THE NORTH LINES OF PARCELS 'C' AND 'D' AS DESCRIBED IN DOCUMENT NUMBER 031224181, SOUTH 88 DEGREES 01 MINUTES 28 SECONDS WEST, 451.83 FEET; THENCE ALONG THE NORTHEASTERLY LINES OF PARCELS 'D' AND 'E' AS DESCRIBED IN SAID DOCUMENT NUMBER 031224181, NORTH 36 DEGREES 06 MINUTES 02 SECONDS WEST, 184.19 FEET; THENCE NORTH 01 DEGREES 58 MINUTES 32 SECONDS WEST ALONG THE EAST LINE OF SAID PARCEL 'E', 102.21 FEET TO THE NORTHEAST CORNER THEREOF; THENCE ALONG A SOUTHERLY LINE OF THAT INGRESS-EGRESS EASEMENT DESCRIBED IN DOCUMENT 0074514, NORTH 53 DEGREES 54 MINUTES 09 SECONDS EAST, 64.17 FEET; THENCE ALONG THE SOUTH LINE OF SAID EASEMENT AND THE EASTERLY EXTENSION THEREOF, NORTH 88 DEGREES 01 MINUTES 28 SECONDS EAST, 497.35 FEET; THENCE NORTH 01 DEGREES 55 MINUTES 05 SECONDS WEST, 132.52 FEET; THENCE SOUTH 88 DEGREES 01 MINUTES 28 SECONDS WEST, 18.03 FEET; THENCE NORTH 01 DEGREES 58 MINUTES 32 SECONDS WEST, 9.22 FEET; THENCE SOUTH 87 DEGREES 56 MINUTES 58 SECONDS WEST, 131.79 FEET; THENCE NORTH 01 DEGREES 47 MINUTES 56 SECONDS WEST, 54.69 FEET; THENCE SOUTH 88 DEGREES 12 MINUTES 04 SECONDS WEST, 31.76 FEET; THENCE NORTH 01 DEGREES 57 MINUTES 56 SECONDS WEST, 211.64 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE NORTH 88 DEGREES 01 MINUTES 28 SECONDS EAST ALONG THE NORTH LINE, 70.50 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

TWA

30

PLACE STICKERS
ON THE RETURN
STAPLES FOLD HERE

FROM:

CARR: USPS

TRK#: 70042890000003142015

9/5/2006
09:08

TO: 0550

PH:

LOC: 8702

OF PCS:



A248023292780

MAILSTOP: SWDC

MAILROUTE SWDC

MAIL STATION 0550

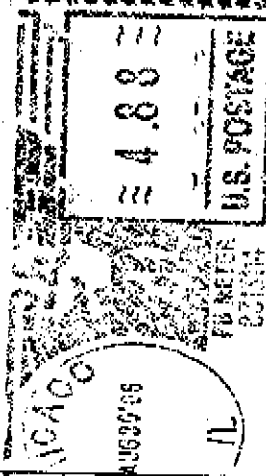
0550

CERTIFIED MAIL**IMPERIAL REALTY COMPANY**

4747 W. Peterson Avenue • Chicago, IL 60646



7004 2890 0000 0314 2015

*Edie Higginbotham**LEGAL**MS# 0550***Wal-Mart Real Estate Business****Trust****702 S.W. Eighth St.****Bentonville, AK 72716**

Vendor: MIAPLU MIA PLUMBING

--- Invoice ---		--- TRANSACTION ---				
Number	Date	Type	Date	Check#	Amount	Balance
5018-1	12/21/05	Invoice	01/04/06		125,000.00	125,000.00
5018-1	12/21/05	Payment	01/19/06	029484	112,500.00	12,500.00
5018-1	12/21/05	Payment	05/22/06	031040	9,638.86	2,861.14
5018-2	12/28/05	Invoice	01/04/06		46,500.00	49,361.14
5018-2	12/28/05	Payment	02/14/06	029883	41,850.00	7,511.14
5018-3	03/03/06	Invoice	03/28/06		7,860.56	15,371.70
5018-3	03/03/06	Payment	04/11/06	030553	7,074.50	8,297.20
5018-3	03/03/06	Payment	04/13/06	030591	6,624.50	1,672.70
5018-3	03/03/06	Void Check	04/13/06	030553	7,074.50	8,747.20
5018-3	03/03/06	Adjustment	04/13/06		500.00-	8,247.20
5018-4	04/10/06	Invoice	04/13/06		145,000.00	153,247.20
5018-4	04/10/06	Payment	05/09/06	030871	30,000.00	123,247.20
5018-4	04/10/06	Payment	05/22/06	031031	37,100.00	86,147.20
5018-4	04/10/06	Payment	05/22/06	031039	27,625.00	58,522.20
5018-4	04/10/06	Payment	05/22/06	031040	50,275.00	8,247.20
5018-4	04/10/06	Payment	05/22/06	031041	37,100.00	28,852.80-
5018-4	04/10/06	Payment	05/22/06	031042	27,625.00	56,477.80-
5018-4	04/10/06	Void Check	05/22/06	031031	37,100.00	19,377.80-
5018-4	04/10/06	Void Check	05/22/06	031039	27,625.00	8,247.20

Vendor: NATPLU NATIONAL PLUMBING

--- Invoice ---		---TRANSACTION---				
Number	Date	Type	Date	Check#	Amount	Balance
060906	06/09/06	Invoice	06/09/06		17,119.21	17,119.21
060906	06/09/06	Payment	06/09/06	031283	17,119.21	.00

Vendor: VULMAT VULCAN MATERIALS COMPANY

--- Invoice ---		---TRANSACTION---					
Number	Date	Type	Date	Check#	Amount	Balance	
060906	06/09/06	Invoice	06/09/06		320.00	320.00	
060906	06/09/06	Payment	06/09/06	031284	320.00	.00	
091206	09/12/06	Invoice	09/14/06		32,534.95	32,534.95	
091206	09/12/06	Payment	09/14/06	032484	32,534.95	.00	
06-09-06	06/09/06	Invoice	06/09/06		320.00	320.00	
06-09-06	06/09/06	Payment	06/09/06	031285	320.00	.00	
06/09/06	06/09/06	Invoice	06/09/06		320.00	320.00	
06/09/06	06/09/06	Payment	06/09/06	031286	320.00	.00	
06/09/06	06/09/06	Payment	06/09/06	031287	320.00	320.00-	
06/09/06	06/09/06	Void Check	06/09/06	031286	320.00	.00	

Exhibit C



General Contractors - Const

2636 W. 15th Avenue - C

(219) 949-3100 Fax:

CONTRACT NUMBER 5018-034

THIS AGREEMENT, made this June 20, 2006, by and between POWERS & SONS CONSTRUCTION COMPANY, INC., hereinafter designated the Contractor, and

Broadway Construction Services, Inc.
1101 West Adams
Chicago, IL 60607

Hereinafter designated the Subcontractor.

WITNESSETH

That the Subcontractor hereby agrees for certain hereinafter specified considerations to furnish all materials, labor, and equipment and fully complete as required by the plans and specifications furnish by: PB2 Architecture and Engineering, plan(s) and specification(s) dated March 18, 2005; the following described

Wal-Mart Store Number 3725, Demolition of Existing Structure, Construction of new Wal-Mart Facility, and Site Improvements
3500 Golf Road, Niles, IL
ADDENDA 1, 2, and 3
NO ALTERNATES

Specification Section(s): 15060, 15100, 15410 & 15480

This contractor will supply all labor for materials purchased by Powers and Sons Construction Co., Inc. for work done on a Time and Material basis as per plans and specifications. All work will be placed on daily tickets that will be signed by a Powers & Sons superintendent. This work includes but is not limited to:

1. Daily cleanup
2. Roof drains / insulation BHR YG
3. Any found underground deficiencies
4. Vent stack penetrations through roof
5. Video and dye test of underground
6. Floor cleanouts and floor drains
7. Trench drains
8. In slab plumbing work
9. Down spout insulation BHR YG

Contractor to comply with all Wal-Mart SWPPP plans and specifications for work performed on this site.

And the Subcontractor further agrees to fully relieve the Contractor of all responsibility for finishing and completing the said work in accordance with the Contractor's general contract with Wal-Mart Stores Inc. hereinafter designated the Owner, in the construction of the above named project, and agreed that the terms and provisions of said contract between the Contractor and said Owner with September 13, 2005, are made part of this Agreement and further, that the Subcontractor grants to said Contractor those rights, powers, and remedies in every detail and respect and in the same language and intent which Owner reserves to itself in the said general contract.

In consideration whereof the Subcontractor shall receive the sum of **FORTY THOUSAND DOLLARS AND ZERO CENTS (\$40,000.00)** as full compensation for completion of the work described herein and the fulfillment of all stipulations of this agreement in the following manner, to wit:

That within ten (10) calendar days of receipt of payment by the Contractor from the Owner, payment shall be made in the amount of NINETY percent (90%) of the value of work completed the preceding month as payment estimated and approved by the Architect, Owner, and Contractor and upon payment being made by the Owner to the Contractor herein; the remaining TEN percent (10%) to be paid upon final completion and acceptance by the Owner, Architect, and Contractor of the work to be done hereunder, and said payments to be made only upon presentation of formal waivers of liens together with an affidavit that all payments have been made for all labor and material.

It is further understood and agreed that the Contractor may retain out of any moneys at any time due to Subcontractor a sum sufficient to pay all persons who have performed labor or furnished materials for the work included in this contract and/or to protect said Contractor against loss in the event the Subcontractor shall default or fail to perform this contract or any separable part thereof, and said sums may be retained until satisfactory evidence is furnished the Contractor that all such claims have been fully satisfied.



General Contractors - Const

2636 W. 15th Avenue - C

(219) 949-3100 Fax:

CONTRACT NUMBER 5018-034

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Broadway Construction Services, Inc.
1101 West Adams
Chicago, IL 60607

Hereinafter designated the Subcontractor.

WITNESSETH

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3500 Golf Road, Niles, IL
ADDENDA 1, 2, and 3
NO ALTERNATES

Specification Section(s): 15060, 15100, 15410 & 15480

This contractor will supply all labor for materials purchased by Powers and Sons Construction Co., Inc. for work done on a Time and Material basis as per plans and specifications. All work will be placed on daily tickets that will be signed by a Powers & Sons superintendent. This work includes but is not limited to:

1. Daily cleanup
2. Roof drains / insulation BWH YG
3. Any found underground deficiencies
4. Vent stack penetrations through roof
5. Video and dye test of underground
6. Floor cleanouts and floor drains
7. Trench drains
8. In slab plumbing work
9. Down spout insulation BWH YG

Contractor to comply with all Wal-Mart SWPPP plans and specifications for work performed on this site.

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In consideration whereof the Subcontractor shall receive the sum of **FORTY THOUSAND DOLLARS AND ZERO CENTS (\$40,000.00)** as full compensation for completion of the work described herein and the fulfillment of all stipulations of this agreement in the following manner, to wit:

That within ten (10) calendar days of receipt of payment by the Contractor from the Owner, payment shall be made in the amount of NINETY percent (90%) of the value of work completed the preceding month as payment estimated and approved by the Architect, Owner, and Contractor and upon payment being made by the Owner to the Contractor herein; the remaining TEN percent (10%) to be paid upon final completion and acceptance by the Owner, Architect, and Contractor of the work to be done hereunder, and said payments to be made only upon presentation of formal waivers of liens together with an affidavit that all payments have been made for all labor and material.

It is further understood and agreed that the Contractor may retain out of any moneys at any time due to Subcontractor a sum sufficient to pay all persons who have performed labor or furnished materials for the work included in this contract and/or to protect said Contractor against loss in the event the Subcontractor shall default or fail to perform this contract or any separable part thereof, and said sums may be retained until satisfactory evidence is furnished the Contractor that all such claims have been fully satisfied.

The Subcontractor further agrees it as follows:

1. The Subcontractor will commence work immediately upon notice to do so by POWERS & SONS CONSTRUCTION COMPANY, INC., and will prosecute the work until completion with such diligence as is practicable and as is necessary in the opinion of the Owner to enable the Contractor to fulfill the terms of the principal contractor with reference to time of completion.
2. The Subcontractor will not sell, assign, sublet, transfer, or set-over this contract or any part thereof, or any interest therein, or any moneys to be due, or to become due therefrom, without the consent of the Contractor.
 - a. Neither Owner's rights nor contractor's indemnification obligations under the contract documents shall be impaired or affected in any way by the failure of Owner to provide Contractor with a copy of a notice to Owner, notice of lien, mechanics lien, or other information requested by Contractor.
3. The Subcontractor shall submit to contractor within five (5) days a schedule listing all items required to be furnished for review and approval action. This schedule shall indicate the approximate date when submittals will be made and the date of delivery after review action. That the Subcontractor will procure at their own expense compensation insurance and/or indemnity accident policy in a reliable insurance company or companies satisfactory to the Contractor, covering full compensation to any employees for any injuries or death under the Workmen's Compensation Act of the State in which the work is prosecuted, and protecting the Owner and the Contractor in case of accident to personnel employed on the building, themselves, and employees, or the public, and to furnish the said Contractor a certificate from the said policies to remain in full force and effect at all times until the complete performance on the part of the Subcontractor of this contract; and to indemnify the Owner and Contractor again all claims, demands, and damages, including costs and attorney's fees, in the event of suit arising from accident to persons or property occasioned by said Subcontractor or his employees.
4. The Contractor and all Subcontractors are hereby notified that all Subcontractors, Sub-subcontractors, and suppliers are subject to the prior written approval of the Owner (which may be granted or withheld in Owner's sole discretion) prior to execution of contract.

The Insurance Requirements are as follows:

General Liability:	
Per Occurrence	\$1,000,000
Aggregate	\$2,000,000
Products Completed Operations	\$2,000,000
Automobile Liability	\$1,000,000
Excess Liability	\$3,000,000
Workers Compensation:	STATUTORY
Employers Liability	\$1,000,000

Additional Insured & Certificate Holder Required:

1. Powers and Sons Construction Co.
2636 West 15th Avenue, Gary, IN 46404
2. Wal-Mart Stores, Inc., its subsidiaries and affiliates
2001 South East 10th Street, Bentonville, Arkansas 72716

NOTES:

1. It must also reference the above-mentioned project description and contract number.
1. Note on certificate that contractual liability is provided.
2. Cancellation must state 30 days notification of cancellation.
3. We are requiring both Powers & Sons Construction Company and Wal-Mart be named as certificate holders.

5. The Subcontractor further agrees to procure, at their own expense, public liability insurance in sufficient amounts to indemnify the Contractor from any claims, suits, and/or damages arising from accidents to persons or property during the period that their contract is in force.
6. The Subcontractor further agrees that they will have no dealings with anyone other than the Contractor in regard to additions, alterations, or deviations, in connection with this work.
7. The minority manpower requirements shall be 25% of all trades on the project. Subcontractor shall follow city of Niles hiring and minority requirements.
8. Subcontractor shall take precautions to observe and maintain conformance with OSHA safety requirements.
9. Contractor will schedule weekly project meetings the attendance of which shall be mandatory for all Subcontractors either currently working on site or expected on site within two (2) weeks of the scheduled meeting. Attendance is also mandatory for any Subcontractor requested to attend by the Project Manager.
 - a. Subcontractor hereby agrees to accept a fine of \$200.00 for each mandatory project meeting not attended by a minimum of Subcontractor's project manager. NOTE: Subcontractors not on site will be notified of the date of the meeting three weeks prior to date of 1st meeting, unless otherwise notified by Project Manager.
10. Daily clean up for Subcontractor shall be completed each and every day at the end of the scheduled workday. If the work site is left unclean, the General Contractor, without written notice, will clean the area and back charge the Subcontractor for clean up expense.
11. That, as guarantee of the faithful performance of his part of the contract, the Subcontractor agrees to furnish a corporate surety bond in a company satisfactory to the Contractor in the amount of N/A premiums on said bond to be paid by the Subcontractor herein.

-
12. That should any imperfect workmanship or material or other faults or defects appear in said building within time specified after the completion and acceptance of said work, and which in the sole judgment of the Owner and Architect arise out of improper materials or workmanship, the Subcontractor shall immediately after notice thereof, make good any such fault at his own expense and upon his default the Contractor may do said work and recover from the Subcontractor the cost thereof.
13. And it is further agreed that, if the Subcontractor shall fail to execute this Agreement according to its terms or shall default in the performance of any of the foregoing conditions, then and in that event the Contractor, by giving three (3) days notice in writing to the Subcontractor of its intentions, so to do, may terminate the Subcontractor's right to proceed with the work or any separable part thereof, and/or may enter upon the employ of other persons to finish said work by contract or otherwise, and/or do further acts as are reserved by the Owner in its principal contract with the Contractor. It is further agreed by the Subcontractor as follows: proceed with the work or any separable part thereof, and/or may enter upon the employ of other persons to finish said work by contract or otherwise, and/or do further acts as are reserved by the Owner in its principal contract with the Contractor.
14. Should the Subcontractor refuse to start work promptly, neglect to supply a sufficient number of properly skilled workmen or sufficient materials of the proper quality, or fail in performance of any of the agreements herein contained, Contractor, without notice to Subcontractor, may provide any such labor or materials and deduct the cost from any money then due or thereafter to become due under this Sub-Contract; but if such expense and damage shall exceed such unpaid balance, Subcontractor shall pay the difference to Contractor and all attorney fees associated therewith.
15. Powers & Sons will not require Subcontractor to install equipment which violates ASTM and CPSC Safety guidelines.
16. Subcontractor agrees with the terms and conditions of the attached construction schedule, and will exercise due diligence in completing his portion of the work in coordination with the other trades.

17. NON-ENGLISH SPEAKING WORKMEN: The Subcontractor agrees that should they provide non-english speaking workmen for this project at anytime, there must also be an English speaking translator for said worker(s) present on the project for the entire period that the non-English speaking worker(s) are on the project. Translator(s) must be identified with clear markings on their hard hats and/or clothing. The translator(s) must identify themselves immediately upon reporting to the jobsite to the Project Superintendent. If non-English speaking worker(s) are working in multiple areas and quick emergency communication is not practical in the sole opinion of the Project Superintendent, the Superintendent reserves the right to require an additional translator(s) be provided for the purpose of proper emergency communication.

18. CHANGES: This Subcontract may only be modified by a written document signed by both parties. Subcontractor expressly acknowledges that only the officers of the Contractor shall have authority to sign a change order or other modifications to this Subcontract. Agents, project managers, superintendents, foremen, or other employees of Contractor shall not have any authority to contractually bind Contractor and Subcontractor agrees that it shall not rely upon or accept any modifications to this Subcontract unless such modifications are in a written document signed by an officer of the Contractor.

- a. Subcontractor agrees that it will not perform any additional work unless it has received prior written approval from an officer of contractor. Said prior written approval by an officer of Contractor shall be an absolute condition precedent to any rights of Subcontractor to recover for any additional work. In the absence of such prior written approval by an officer of Contractor, any claims by the Subcontractor shall be deemed waived and forfeited, and shall not be valid for any purpose of recovery against the Contractor, its surety, or the Owner.

19. CLAIMS: The Subcontractor agrees to make all claims for which the Contractor and the Owner may be jointly or severally liable in written form and in the same manner and time limitations as provided in the Contract between the Owner and the Contractor. In the event Subcontractor has any claim against the Contractor that cannot be asserted against the Owner, or if the Contract between the Owner and Contractor does not otherwise make provision for asserting any claims against the Owner or Contractor, then Subcontractor shall give written notice of any such claims to Contractor within fifteen (15) days of the date when the Subcontractor first knew, or reasonably should have known, of the facts given rise to the event for which claim is made.

- a. If a claim is timely filed, any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by binding arbitration administered by the American Arbitration Association under the Fast Track Procedure of the Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any such demand for arbitration must be filed within ninety (90) days of the date when the Subcontractor first knew, or reasonably should have known, of the facts giving rise to the event for which claim is made.
- b. If the Subcontractor fails to give timely written notice or fails to timely file a demand for arbitration, any such claims by the Subcontractor shall be deemed waived and forfeited, and shall not be valid for any purpose of recovery against the Contractor, its surety, or the Owner. In any arbitration, or in any other dispute resolution procedures relating to this Subcontract, the prevailing party shall recover its reasonable attorney fees and costs from the other party.

20. ONLY UNION LABOR: Subcontractor agrees that it and any of its lower-tiered Subcontractors working for or through Subcontractor will only employ labor pursuant to the applicable AFL-CIO building trades collective bargaining agreements that are in effect for the site of the Project and that they are signatory to all such collective bargaining agreements. Subcontractor shall, at its sole expense, indemnify, hold harmless, and defend Contractor and its surety from any liability arising from the failure of Subcontractor, or any of its lower-tiered Subcontractors working for or through Subcontractor, to comply with said obligations and/or the provisions of said collective bargaining agreements.

**General Contractors – Construction Managers**

2636 W. 15th Avenue – Gary, IN 46404

(219) 949-3100 Fax: (219) 949-5906

21. **SATISFACTION OF ALL CLAIMS AS TO SUBCONTRACTOR WORK:** In the event the Contractor has reason to believe that labor, material, equipment or other obligations incurred in the performance of Subcontract work are not being paid by the Subcontractor (or any lower-tiered Subcontractor working for or through Subcontractor), or if any lien or bond claims are asserted or served on the Contractor by any person or entity in regard to Subcontractor work, then the Subcontractor shall not be entitled to any payment for Subcontract work until all such outstanding claims or other obligations asserted in regard to the Subcontract work are fully satisfied by the Subcontractor, and all such claims are finally released as to the Contractor, its surety and the Owner. Contractor shall further be entitled to retain out of any payments due or to become due to the Subcontractor a reasonable amount to protect and fully reimburse the Contractor for any and all loss, damage or expense, additional overhead and administrative costs, including attorney's fees and other costs arising out of or relating to any such claim or lien until the claim or lien has been satisfied by the Subcontractor.

22. **PAYMENT:** Contractor shall not be obligated to pay any portion of the Subcontractor's current payment application until the amount for the Subcontract work requested by the Subcontractor, as incorporated into Contractor's payment application to the Owner, is accepted by the Owner and funds therefore are paid from the Owner to the Contractor. Thus, Contractor's receipt of payment from the Owner for Subcontractor's work is an absolute condition precedent to all obligations of Contractor to pay Subcontractor, and Subcontractor is assuming the entire risk of the failure and/or refusal of the Owner to pay for the Subcontract work. Notwithstanding anything herein to the contrary, Contractor shall not be obligated to make final payment until Subcontractor has completed all of the Subcontract work and all items listed on any punch list(s) that relate to the Subcontract work.

**General Contractors – Construction Managers**

2636 W. 15th Avenue – Gary, IN 46404

(219) 949-3100 Fax: (219) 949-5906

-
- a. The Subcontractor, and each of its officers, directors, shareholders, employees, successors or assigns, who receive any payments or distributions from the Contractor or any person in regard to the Subcontract work shall hold such payments or distributions as a trustee upon the express trust and fiduciary duty hereby established and acknowledged for the benefit of Contractor, its surety, the Owner, and all laborers, material men, equipment or other components incorporated into the performance of the Subcontract work. The Subcontractor, and each of its officers, directors, shareholders, employees, successors and assigns, who receive or have the right to control such payments or distributions shall be under a continuing duty to account for such matters, and only use such funds for the purpose of first paying those expenses and costs of the Subcontract work that if unpaid could give rise to a claim for lien against the Owner's property, the funds due from the Owner to the Contractor, or against any bond given by the Contractor and its surety to the Owner in regard to the Subcontract work. Any person receiving or controlling the payment delivered to the Subcontractor shall be jointly and severally liable to the Contractor, its surety and the Owner for all breaches of such trust, or other acts of fiduciary malfeasance or misfeasance in regard to the accounting or application and payment of such funds.

23. TIME: Time is of the essence as to all time periods and dates set forth in this Subcontract.

24. DELAY DAMAGES: If the Contract between Contractor and the Owner provides for liquidated or other damages for delay beyond the completion date set forth in the Contract, and such damages are assessed by the Owner against the Contractor, then the Contractor may assess such damages against the Subcontractor in proportion to its share of the responsibility for such delay and damage. For purposes of establishing any such delay caused by the Subcontractor, the Subcontractor acknowledges and represents that Contractor has provided.

**General Contractors – Construction Managers**

2636 W. 15th Avenue – Gary, IN 46404

(219) 949-3100 Fax: (219) 949-5906

- a. Subcontractor with a schedule for construction operations that sets forth the period in which the Subcontract work is to be performed and completed, and Subcontractor agrees that it will begin and finish the Subcontract work in accordance with Contractor's construction schedule. Subcontractor's failure to either begin or finish the Subcontract work on the dates established in Contractor's construction schedule shall be presumptive of the fact that Subcontractor has caused a delay in the Subcontract work for at least the number of days beyond the start or finish dates set forth in such schedule. The assessment and allocation of liquidated or other damages to the Subcontractor hereunder, and as imposed under the Contract between the Contractor and the Owner, shall not constitute a waiver or election by the Contractor as to any rights, claims or damages that the Contractor may have against the Subcontractor for any delay in the performance of the Subcontract work. The assessment and allocation of such liquidated damages to the Subcontractor shall merely be one component of the damages that Contractor may otherwise be entitled to recover from the Subcontractor in the event of any delays caused by the Subcontractor in the performance of the Subcontract work.

25. **CONTRACTOR REMEDIES FOR SUBCONTRACTOR NON-PERFORMANCE:** If Subcontractor fails or ceases to perform any obligations required under this Subcontract, or otherwise fails to satisfactorily complete the Subcontract, then in addition to any other right or remedy provided by this Subcontract or applicable law, the Contractor shall be entitled to recover from Subcontract as damages for the breach of this Subcontract, all direct, indirect and consequential costs and expenses incurred by the Contractor as a result of the Subcontractor's breach or lack of performance under this Subcontract, including the Contractor's reasonable attorney's fees, costs and other charges or expenses expended or incurred in the course of litigation or other action taken to protect the Contractor's interest under this Subcontract and to enforce performance of the Subcontractor's obligations and completion of the Subcontract work. In addition to such damages the Contractor shall also be entitled to recover from the Subcontractor prejudgment interest at the rate of One and One-half percent (1.5%) per month compounded daily on all funds expended by the Contractor in the course of seeking, correcting, or obtaining the performance of any obligation of Subcontractor under this Subcontract, including but not limited to, any funds expended to settle, resolve, or dispose of any liens or claims filed against the interest of the Contractor, its surety, or the Owner, by any laborer, material men, supplier, or Subcontractor of the Subcontractor in regard to the Subcontract work.



General Contractors – Construction Managers

2636 W. 15th Avenue – Gary, IN 46404

(219) 949-3100 Fax: (219) 949-5906

26. GOVERNING LAW: This Subcontract shall be governed by and interpreted in accordance with the laws of the State in which the Project is located.

27. INTEGRATION CLAUSE: This Subcontract sets forth the entire agreement of the parties for the Project, prior oral or written agreements notwithstanding.

28. TAX EXEMPT STATUS: This project ☐ is/ ☒ is not tax exempt.

29. ACCEPTANCE CLAUSE: Acceptance of this contract is assumed if not returned to writer within 10 days from date of issue (no payments will be issued unless signed contract is on file). Beginning work or delivery after receipt of the same also constitutes acceptance.

This Agreement shall be binding upon and insure to the benefits of the respective heirs, executors, administrators, successors and assign of parties hereto.

POWERS & SONS CONSTRUCTION COMPANY, INC.

By: _____

Mamon Powers, Jr.

Broadway Construction Services, Inc.

By: _____

ITS PresidentITS PRESIDENT

ATTEST: _____

E. Godremenc

ATTEST: _____

Exhibit D

Powers & Sons Construction Company2636 West 15th Avenue
Gary, IN 46404Phone: 219.949.3100
Fax: 219.949.5906**CHANGE ORDER****No. 00001****TITLE:** T & M WORK: 6/19/2006 - 6/24/2006**DATE:** 6/27/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.**CONTRACT NO:** 5018-034

1101 West Adams

Unit C

Chicago, IL 60607

Phone: 312.243.7925 Fax: 312.446.7300

Attn: Brett Antonietti

DESCRIPTION OF CHANGE

REASON FOR CHANGE: ADD TO CONTRACT

POWERS & SONS PCO #: N/A

OWNERS'S CHANGE ORDER #: N/A

NOT IN ORIGINAL SCOPE

CONTRACT TIME WILL BE UNCHANGED

Item	Description	Quantity	Unit Price	Net Amount
00001	T & M WORK FOR 6/19/2006 TO 6/24/2006. WORK INCLUDES LABOR FOR: SUBWAY UNDERGROUND, ROOF DRAIN PIPING, CHANGE DIRECTIVE #5, UNDERGROUND REPAIR, ROOF DRAIN INSTALLATION, FLOOR DRAIN AND CLEAN OUT INSTALLATION.	1.000	\$23,118.33	\$23,118.33

Total: \$23,118.33

The Original Contract Sum was	.....	\$40,000.00
Net Change by Previously Authorized Requests and Changes	.....	\$0.00
The Contract Sum Prior to This Change Order was	.....	\$40,000.00
The Contract Sum Will be Increased	.....	\$23,118.33
The New Contract Sum Including This Change Order	.....	\$63,118.33
The Contract Time Will Not Be Changed	.....
The Date of Substantial Completion as of this Change Order Therefore is	.....


ACCEPTED:

Broadway Construction Services, Inc.

By: 
Brett Antonietti

Date: 7/7/06

Powers & Sons Construction Company

By: 
Mamon Powers Jr.

Date: 7/13/06

Powers & Sons Construction Company**CHANGE ORDER****No. 00002**

36 West 15th Avenue

Phone: 219.949.3100

Bloomington, IN 46404

Fax: 219.949.5906

TITLE: T & M Work 6.26.06/6.30.06**DATE:** 7/6/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.**CONTRACT NO:** 5018-034

1101 West Adams

Unit C

Chicago, IL 60607

Phone: 312.243.7925 Fax: 312.446.7300

Attn: Brett Antonietti

DESCRIPTION OF CHANGE

Reason for Change: Add to Contract.

Powers & Sons PCO #: N/A

Owner's Change Order #: N/A

Contract in Original Scope: N/A

Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
001	T & M for 6.26.06 to 6.30.06. Work includes labor for underground repair, roof drain installation, vents through roof, garden center, Imperial down spouts.	1.000	\$24,484.56	\$24,484.56

Total: \$24,484.56

Original Contract Sum was	\$40,000.00
Change by Previously Authorized Requests and Changes	\$23,118.33
Contract Sum Prior to This Change Order was	\$63,118.33
Contract Sum Will be Increased	\$24,484.56
New Contract Sum Including This Change Order	\$87,602.89
Contract Time Will Not Be Changed	
Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:Broadway Construction Services,
Inc.**Powers & Sons Construction
Company**

By: _____

By: _____

By: _____

Brett Antonietti

Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Powers & Sons Construction Company2636 West 15th Avenue
Gary, IN 46404Phone: 219.949.3100
Fax: 219.949.5906**CHANGE ORDER****No. 00003****TITLE:** T & M Work 7.5.06 - 7.7.06**DATE:** 7/13/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.
1101 West Adams
Unit C
Chicago, IL 60607
Phone: 312.243.7925 Fax: 312.446.7300**CONTRACT NO:** 5018-034

Attn: Brett Antonietti

DESCRIPTION OF CHANGE

Reason for Change: Add to contract

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	Time and material for 7.5.06 - 7.7.06. Work includes labor for underground repair and garden center.	1.000	\$10,123.79	\$10,123.79

Total: \$10,123.79

The Original Contract Sum was	\$40,000.00
Net Change by Previously Authorized Requests and Changes	\$47,602.89
The Contract Sum Prior to This Change Order was	\$87,602.89
The Contract Sum Will be Increased	\$10,123.79
The New Contract Sum Including This Change Order	\$97,726.68
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:Broadway Construction Services,
Inc.**Powers & Sons Construction
Company**

By: _____

By: _____

By: _____

Brett Antonietti

Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Powers & Sons Construction Company**CHANGE ORDER****No. 00004**

2636 West 15th Avenue

Phone: 219.949.3100

Gary, IN 46404

Fax: 219.949.5906

TITLE: Interior Bld Work & Credit Adjusted**DATE:** 7/14/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.**CONTRACT NO:** 5018-034

1101 West Adams

Unit C

Chicago, IL 60607

Phone: 312.243.7925 Fax: 312.446.7300

Attn: Brett Antonietti

DESCRIPTION OF CHANGE

**** All contractors must comply to SWPPP requirements.

**** There will be a deduct change order for all underground work done and paid on T & M for the "Subway"

Powers & Sons PCO #: N/A

Owner's Change Order #: N/A

Not in Original Scope: N/A

Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	Credit due to revise rates for workers comp and general liability.	1.000	(\$1,817.91)	(\$1,817.91)

The Original Contract Sum was	\$40,000.00
Net Change by Previously Authorized Requests and Changes	\$57,726.68
The Contract Sum Prior to This Change Order was	\$97,726.68
The Contract Sum Will be Increased	\$279,182.09
The New Contract Sum Including This Change Order	\$376,908.77
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:Broadway Construction Services,
Inc.Powers & Sons Construction
CompanyBy: _____
Brett Antonietti

By: _____

By: _____
Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

& Sons Construction Company**CHANGE ORDER****No. 00004**5th Avenue
6404Phone: 219.949.3100
Fax: 219.949.5906**DATE: 7/14/06****JOB: 5018****CONTRACT NO: 5018-034**: Interior Bld Work & Credit Adjusted
JECT: Wal-Mart Store Number 3725Broadway Construction Services, Inc.
1101 West Adams
Unit C
Chicago, IL 60607
Phone: 312.243.7925 Fax: 312.446.7300

Attn: Brett Antonietti

DESCRIPTION OF CHANGE

Item	Description	Quantity	Unit Price	Net Amount
00002	Per drawings dated 3.14.05 and spec sections 15050, 15100, 15410, and 15480. Furnish and install interior plumbing from above ground slab up to, but not including roof penetrations. Work included, but not limited to, daily clean up of your debris, coring as needed, above ground waste and vent piping, above ground water piping, installation of fixtures, connections for equipment set and furnished by others, insulation of water lines, coordination with other trades, receive and unload fixture provided by others, protection of own work, work per schedule, provide all equipment and man power to complete all required work.	1.000	\$281,000.00	\$281,000.00

Total: \$279,182.09

The Original Contract Sum was	\$40,000.00
Net Change by Previously Authorized Requests and Changes	\$57,726.68
The Contract Sum Prior to This Change Order was	\$97,726.68
The Contract Sum Will be Increased	\$279,182.09
The New Contract Sum Including This Change Order	\$376,908.77
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:Broadway Construction Services,
Inc.**Powers & Sons Construction
Company**By: _____
Brett Antonietti

By: _____

By: _____
Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery

Powers & Sons Construction Company2636 West 15th Avenue
Gary, IN 46404Phone: 219.949.3100
Fax: 219.949.5906**CHANGE ORDER****No. 00005****TITLE:** Add to Contract; T&M Work**DATE:** 8/10/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.
1101 West Adams Unit C
Chicago, IL 60607**CONTRACT NO:** 5018-034

Attn: Authorized Rep

DESCRIPTION OF CHANGE

Reason for Change: Add to Contract

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	Addition to contract \$3,780.00 for work performed separate billings: \$2,407.50 and \$1,372.50	1.000	\$3,780.00	\$3,780.00
00002	T&M for 7/17/06 to 7/20/06. Work includes labor for underground work and repair	1.000	\$11,280.87	\$11,280.87
00003	T&M for 7/10/06 to 7/14/06. Work includes labor for underground repair and subway	1.000	\$14,061.31	\$14,061.31
Total:				\$29,122.18

The Original Contract Sum was	\$40,000.00
Net Change by Previously Authorized Requests and Changes	\$336,908.77
The Contract Sum Prior to This Change Order was	\$376,908.77
The Contract Sum Will be Increased	\$29,122.18
The New Contract Sum Including This Change Order	\$406,030.95
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:Broadway Construction Services,
Inc.Powers & Sons Construction
CompanyBy: _____
Authorized Rep

By: _____

By: _____
Mamon Powers Jr.

Date: _____

Date: _____

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company

2636 West 15th Avenue

Gary, IN 46404

Phone: 219.949.3100

Fax: 219.949.5906

CHANGE ORDER

No. 00006

TITLE: Misc. Time & Material Work**DATE:** 8/18/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.
1101 West Adams Unit C
Chicago, IL 60607**CONTRACT NO:** 5018-034**FILE COPY**

Attn: Authorized Rep

DESCRIPTION OF CHANGEPowers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	T & M for 7.17.06 to 7.20.06. Work includes labor for underground work and repair. Reason for Change: Add to contract.	1.000	\$11,280.87	\$11,280.87
00002	T & M for 7.10.06 to 7.14.06. Work includes labor for underground repair and subway. Reason for Change: Add to contract.	1.000	\$14,061.31	\$14,061.31
00003	Remaining balance from MIA Plumbing. Reason for Change: Add to contract - Backcharge to MIA.	1.000	\$12,000.00	\$12,000.00
Total:				\$37,342.18

The Original Contract Sum was	\$40,000.00
Net Change by Previously Authorized Requests and Changes	\$366,030.95
The Contract Sum Prior to This Change Order was	\$406,030.95
The Contract Sum Will be Increased	\$37,342.18
The New Contract Sum Including This Change Order	\$443,373.13
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:Broadway Construction Services,
Inc.By: _____
Authorized Rep

Date: _____

Powers & Sons Construction
CompanyBy: _____
Mamon Powers Jr.

Date: _____

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company**CHANGE ORDER**

2636 West 15th Avenue

Phone: 219.949.3100

No. 00007

Gary, IN 46404

Fax: 219.949.5906

TITLE: T & M Work 7.22.06 - 8.5.06**DATE:** 8/18/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.
1101 West Adams Unit C
Chicago, IL 60607**CONTRACT NO:** 5018-034

Attn: Authorized Rep

DESCRIPTION OF CHANGE

Reason for Change: Add to contract.

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	Time and Material work for 7.22.06/8.7.06. Work includes labor for underground work and repair.	1.000	\$21,081.53	\$21,081.53
Total:				\$21,081.53

The Original Contract Sum was	\$40,000.00
Net Change by Previously Authorized Requests and Changes	\$403,373.13
The Contract Sum Prior to This Change Order was	\$443,373.13
The Contract Sum Will be Increased	\$21,081.53
The New Contract Sum Including This Change Order	\$464,454.66
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:

Broadway Construction Services, Inc.

Powers & Sons Construction Company

By: 
Authorized RepBy: By: 

Mamon Powers Jr.

Date: 9/5/06

Date: _____

Date: 10/3/06

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company**CHANGE ORDER**2636 West 15th Avenue
Gary, IN 46404Phone: 219.949.3100
Fax: 219.949.5906

No. 00008

TITLE: Credit for Double Entry of T & M Tic**DATE:** 8/24/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.
1101 West Adams Unit C
Chicago, IL 60607**CONTRACT NO:** 5018-034

Attn: Authorized Rep

DESCRIPTION OF CHANGE

Reason for Change: Deduct to contract.

Powers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	Revised contract amount - double entry of T & M Tickets. Change Order Number 6 was credit with partial tickets that were in change order number 5.	1.000	(\$29,122.18)	(\$29,122.18)

Total: (\$29,122.18)

The Original Contract Sum was	\$40,000.00
Net Change by Previously Authorized Requests and Changes	\$424,454.66
The Contract Sum Prior to This Change Order was	\$464,454.66
The Contract Sum Will be Decreased	(\$29,122.18)
The New Contract Sum Including This Change Order	\$435,332.48
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:Broadway Construction Services,
Inc.Powers & Sons Construction
CompanyBy: By: 

Authorized Rep

Mamon Powers Jr.

Date: 9/5/06

Date:

Date: 10/3/06

Acceptance of this Change Order is assumed if not returned to writer within 10 days from date of issue. Beginning work or delivery after receipt of the same constitutes acceptance.

Powers & Sons Construction Company2636 West 15th Avenue
Gary, IN 46404Phone: 219.949.3100
Fax: 219.949.5906**CHANGE ORDER****No. 00009****TITLE:** MISC. CHANGES**DATE:** 9/20/06**PROJECT:** Wal-Mart Store Number 3725**JOB:** 5018**TO:** Broadway Construction Services, Inc.
1101 West Adams Unit C
Chicago, IL 60607**CONTRACT NO:** 5018-034

Attn: Authorized Rep

DESCRIPTION OF CHANGEPowers & Sons PCO #: N/A
Owner's Change Order #: N/A
Not in Original Scope: N/A
Contract Time will be Unchanged

Item	Description	Quantity	Unit Price	Net Amount
00001	BACK CHARGE FOR CLEANUP ON 8/19/2006	1.000	(\$94.51)	(\$94.51)

REASON FOR CHANGE: DEDUCT TO CONTRACT - BACK CHARGE

00002	BACK CHARGE FOR BROKEN PLUMBING FIXTURES	1.000	(\$304.86)	(\$304.86)
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REASON FOR CHANGE: DEDUCT TO CONTRACT - BACK CHARGE

Total: (\$399.37)

The Original Contract Sum was	\$40,000.00
Net Change by Previously Authorized Requests and Changes	\$395,332.48
The Contract Sum Prior to This Change Order was	\$435,332.48
The Contract Sum Will be Decreased	(\$399.37)
The New Contract Sum Including This Change Order	\$434,933.11
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is	

ACCEPTED:Broadway Construction Services,
Inc.Powers & Sons Construction
CompanyBy: _____
Authorized Rep

By: _____

By: _____
Mamon Powers Jr.

Date: _____

Date: _____

Date: _____